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Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Cyprus, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman of the Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 21 December 2001 from the Permanent Representative of Cyprus to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour of enclosing a report from Cyprus to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

My Government stands ready to provide the Committee with further reports or information, as necessary or if requested to do so by the Committee.

I should be grateful if you would have the text of the present letter and the enclosed report circulated as a document of the Security Council.

With best regards,

(*Signed*) Sotos **Zackheos**
Ambassador
Permanent Representative

Enclosure

Report of the Republic of Cyprus, submitted pursuant to Security Council resolution 1373 (2001)

The Government of the Republic of Cyprus wishes to stress that it fully recognizes the existence and the dimensions of international terrorism. The fight against international crime, particularly terrorism, through international cooperation, through full implementation of all relevant international conventions and protocols relating to terrorism as well as Security Council Resolutions 1269(1999) and 1368 (2001), is one of the top priorities of the foreign policy of Cyprus. Moreover, Cyprus fully shares the view for the necessity of a global mobilization against terrorism under the aegis of the United Nations.

The Government is committed to joining forces with all governments on a bilateral level as well as in international fora in the struggle to eliminate terrorism. This determination has been explicitly stated at the highest level with the assurance that all practical measures are carried out in cooperation with the international community and in line with the obligations deriving from the relevant resolutions and the relevant international conventions, to which Cyprus is a party.

Operative Paragraph 1

Sub-paragraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d).

On November 22, 2001, the House of Representatives of the Republic of Cyprus enacted the Ratification Law of the U.N. Convention for the Suppression of the Financing of Terrorism. Consequently, the offences prescribed in the Convention are criminal offences established as such by the Republic of Cyprus and the provided penalties are 15 years imprisonment and/or a fine of CY£f.000.000. Furthermore, a specific provision is included according to which these offences are predicate offences for the purposes of the application of the anti-money laundering legislation, namely, "The Prevention and Suppression of Money Laundering Activities Law of 1996, (No. 61(I)/96)".

Sub-paragraph (b) — What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

The procedure for the freezing and confiscation of assets derived from predicate offences is laid out in a comprehensive law containing, inter alia, provisions for the investigation of offences falling within the scope of the law by the Unit for Combating Money Laundering (M.O.K.A.S.) which is a specially constituted body of investigators headed by a senior legal officer. It also contains provisions for lifting confidentiality and other provisions necessary for making the disclosure of money laundering effective.

The Principal Law regarding the Prevention and Suppression of Money Laundering Activities is Law 61(I)/96, as amended by Laws 25(I)/97, 41(I)/98, 129(I)/99* and 152(I)/00*.

***N.B.** This is the consolidated version of the Law, with the incorporation of the amendments that came into effect in 1998. Since then, there were two more amending laws, Law No. 120(I)/99 and Law No. 152(I)/00, which were not included in the consolidation.

The amendments are minor and affect sections 2, 4, 5, 7, 62(2) and 65(2)(d). The most important amendment is the deletion and substitution of section 5 (effected by Law 152(I)/00). The new section 5

provides that predicate offences are all offences as a result of which proceeds that were generated may become the subject of a laundering offence defined in section 4, and which entail a maximum sentence of one year and above. (It is noted that in Cyprus there is no minimum sentence and Courts are empowered to impose any term of sentence not exceeding the maximum provided for each offence).

N.B. A copy of the Law is included in the "Law Commissioner's Note", which is also submitted to the Committee (see annex II).

Sub-paragraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

The provisions of the anti-money laundering legislation, concerning the freezing and confiscation of funds and other financial assets of persons as prescribed in sub-paragraph (c) are applicable in the case of the commission of such offences.

In addition to the administrative measures taken by the Central Bank of Cyprus, M.O.K.A.S. conducts its own inquiries with Financial Institutions in Cyprus in order to identify any assets belonging to such persons. If such assets are traced, the Unit will apply the provisions of the Law to freeze them.

Moreover, the Central Bank carries out specific procedures for the freezing of assets. In particular, the enforcement of United Nations Security Council Resolutions adopted under Chapter 7 of the UN Charter is based on the provisions of Law 50/65, which implements and recalls the UN Charter and, in particular, on Article 25, which provides that, member states agree and accept to implement the Resolutions of the Security Council. When a decision is taken by the Council of Ministers of the Republic, competent authorities are then instructed to take the necessary measures for the strict implementation of the UN Security Council Resolutions imposing mandatory sanctions. The Central Bank of Cyprus has been assigned with the responsibility for the implementation of the UN sanctions with regard to commercial and financial transactions and assets.

The Central Bank of Cyprus has issued numerous circulars to all banks requesting adherence to the provisions of UN Security Council Resolutions imposing financial sanctions against the Taliban, Osama bin Laden, the Organization "Al Qaeda" and their associates. These are:

1. On 20 September, 2001 the Central Bank of Cyprus issued a circular letter by which all banks in Cyprus were called upon to provide information as to whether Osama bin Laden, the Organisation "Al Qaeda" or any entity owned or controlled by them maintains or ever maintained a bank account in Cyprus or had any other banking transactions in Cyprus.

2. On 27 September, 2001 the Central Bank of Cyprus issued a circular letter to all banks requesting the adoption of measures for the implementation of UN Security Council Resolutions 1267 (1999) and 1333 (2000) by which sanctions have been imposed against the Taliban, Osama bin Laden and their associates.

3. On 27 September, 2001 a circular letter issued by the Central Bank of Cyprus informed banks of US President Bush's Executive Order no. 13224 of 23 September, 2001 by which freezing of assets was imposed against 27 persons supporting or associated with terrorism. Banks were requested to carry out detailed examination of their records and inform the Central Bank of Cyprus whether any of the 27 persons designated in the Executive Order, maintains or ever maintained an account or other relationship with banks in Cyprus.

4. On 2 October, 2001 a circular letter issued by the Central Bank of Cyprus requested the freezing of funds and financial resources belonging to persons designated by the Security Council Committee established pursuant to Resolution 1267 (1999) as being associated with the Taliban and Osama bin Laden. Banks have also been requested to immediately inform the Central Bank of Cyprus whether they maintain or ever maintained accounts or balances for the persons included in the said list.

5. On 2 October, 2001 a circular issued by the Central Bank of Cyprus requested banks to enforce the provisions of UN Security Council's Resolution 1373 (2001) and freeze all funds and financial assets belonging to persons who commit or assist the financing of terrorist acts and, in particular, freeze any balances standing to the credit of the 27 persons designated in President Bush's Executive Order no. 13224 of 23 September, 2001.

6. On 17 October, 2001 the Central Bank of Cyprus issued another circular concerning the provisions of UN Security Council's Resolution 1373 (2001) requesting banks to freeze any balances standing to the credit of 39 persons designated by President Bush in the list of 15 October 2001 extending Executive Order no.13224. Banks were also requested to immediately inform the Central Bank of Cyprus if such balances were identified in their records.

7. On 30 October, 2001 banks were provided, by virtue of another circular issued by the Central Bank of Cyprus, with a list of persons suspected of being involved in the terrorist attacks committed on 11 September, 2001. This list was issued by the Financial Crimes Enforcement Network (FinCEN) and was forwarded by it to M.O.K.A.S. Banks were requested to inform the Central Bank of Cyprus whether any of the persons included in the said list maintains or ever maintained an account or balances with them.

8. On 19 November, 2001 a new circular issued by the Central Bank of Cyprus concerning UN Security Council Resolution 1373 (2001) requested banks to freeze balances standing to the credit of organisations, entities and individuals designated by President Bush in the lists of 5 and 7 November, 2001 extending Executive Order no. 13224. Banks were also requested to immediately inform the Central Bank of Cyprus whether they maintain or ever maintained accounts or balances for any of the persons listed.

9. On 5 December, 2001, the Central Bank of Cyprus issued a new circular concerning UN Security Council Resolutions 1267 (1999) and 1333(2000) forwarding to Banks the new consolidated lists of persons issued by the Security Council Sanctions Committee, established pursuant to SC Res. 1267. This circular requested banks to freeze all funds and financial assets belonging to persons whose names are designated as being associated with the Taliban and Osama bin Laden in the aforementioned list.

10. On 6 December, 2001 a new circular issued by the Central Bank of Cyprus concerning UN Security Council Resolution 1373 (2001) forwarded to banks a consolidated list of persons, which included all previous lists issued by the aforementioned circular letters, subject to freezing of assets as imposed by the said Resolution.

11. On 25 September, 10 October, 18 October and 6 December, 2001, the Central Bank of Cyprus addressed letters to the Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus requesting them to inquire with their members whether they had ever provided any services to persons or entities associated with Osama bin Laden, the organisation "Al Qaeda" and any of the persons included in the lists circulated to banks.

On the basis of responses to the above measures, to date, no funds have been traced with banks in Cyprus belonging or linked to any of the terrorists designated in the above-mentioned circulars. The completeness and accuracy of the information disclosed by banks in response to the above circulars is thereafter checked and verified by on-site inspections made by Central Bank of Cyprus examiners.

Sub-paragraph (d) — What measures exist to prohibit the activities listed in this sub-paragraph?

The activities listed in this sub-paragraph are prohibited with the application of the preventive measures included in the anti-money laundering legislation (The Prevention and Suppression of Money Laundering Activities Law 61(I)/96). More specifically, these measures include the following:

1. Identification procedures.
2. Record-keeping procedures.
3. Internal Reporting procedures.
4. Obligation to report to the Financial Intelligence Unit (M.O.K.A.S.) any relevant suspicion.

It is noted that the Ratification Law of the U.N. Convention on the Suppression of the Financing of Terrorism, includes a provision applying the aforementioned measures to the financing of terrorism.

(Please refer also to answer for (c) above for the measures taken by the Central Bank).

Operative Paragraph 2

Sub-paragraph (a) — What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Regarding recruitment of terrorists or the supply of weapons to terrorists, provisions exist in the Criminal Code that are applicable in such cases (e.g. section 55 providing for unlawful training, section 56 making the membership of an unlawful association illegal, section 53 concerning unlawful oaths to commit offences). Moreover, under the Firearms Law (38/74 and 27/78) and the Explosive Substances Law (Cap. 54), the possession and carrying of firearms and explosive substances is prohibited and entails severe penalties.

In addition, many provisions of the criminal law in Cyprus are implemented in order to combat terrorist acts. In particular, the suppression of terrorism fundraising is achieved by the application of the provisions of the Criminal Code, Cap. 154, and other relevant legislation, as well as international conventions that have been ratified by the Republic of Cyprus.

More specifically, Part II of the Criminal Code deals with the offences against Public Order and refers to a number of serious crimes which are related to terrorism, such as preparation of war or warlike conduct (S.42), use of armed force against the government (S. 41) and carrying arms for terrorist acts (S.80).

Section 63 of the Criminal Code defines an unlawful organization, as any body or person incorporated or not, which by its constitution or propaganda or otherwise advocates, incites or encourages, inter alia, any of the following unlawful acts, namely, the overthrow of the constitution of the Republic of Cyprus by revolution or sabotage, the overthrow by force or violence of the government and the destruction of property of the State. Being a member of an unlawful organization is punishable with 3 years imprisonment (S. 56).

Concerning fundraising, section 58 states that any person who gives or pays contributions, subscriptions or donations, for or on account of, any unlawful association is guilty of a misdemeanour and is liable to one year imprisonment. In addition, section 60 makes provisions for the seizure and forfeiture of the property of an unlawful organization.

N.B. A list of the relevant provisions of the Criminal Code is given in 2 (e) with the penalties in brackets.

It should also be noted that on November 28, 2001 the Council of Ministers approved a draft Bill amending the Criminal Code. The Bill criminalizes participation in a criminal organisation in accordance with the Common Act adopted by the Council of the European Union (98/733/JHA). According to the provisions of the Amending Bill, a criminal organisation is defined as a group that exists for at least six months and consists of three or more individuals, with the common purpose to commit serious criminal offences. The said draft Bill is currently before Parliament.

In addition, the Republic of Cyprus, being a party to ten of the twelve International Conventions/ Protocols pertaining to international terrorism, as well as the relevant Convention of the Council of Europe, is legally bound to refraining from providing any form of support. active or passive, to entities or persons involved in terrorist acts. Specifically, the Republic of Cyprus has signed and ratified the following international conventions:

1. Convention on Offences and Certain Other Offences Committed on Board Aircraft — Tokyo 14.09.1963, Law 31/72.

2. Convention for the Unlawful Seizure of Aircraft — The Hague 16.12.70, Law 30/72.

3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aircraft — Montreal 23.09.71, Law 37/73.

4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents — New York 14.12.1973, Law 63/75.

5. European Convention for the Suppression of Terrorism — Strasbourg 27.01.77, Law 5/79.

6. Convention Against the Taking of Hostages — New York 17.12.79, Law 244/90.

7. Convention on the Physical Protection of Nuclear Materials — Vienna 3.03.80, Law 3(III)/98.

8. Convention for the Suppression of Unlawful Acts Against the Safety of Marine Navigation — Rome 10.03.88, Law 17(III)/99.

9. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf — Rome 10.03.88, Law 17(III)/99.

10. International Convention for the Suppression of Terrorist Bombings — New York 15.12.97, Law 19(III)/2000.

11. International Convention for the Suppression of the Financing of Terrorism — New York — 10.01.2000, Law 29 (III)/01.

In addition, the Republic of Cyprus is in the process of ratifying the remaining two International Instruments relating to Terrorism, a process that is expected to be concluded in the very near future. These are:

1. The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, complementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft — Montreal 24.02.88. The draft Ratification Bill has already been submitted to the House of Representatives.

2. International Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1.03.91. The proposal for submission to the Council of Ministers of the draft Ratification Bill is currently under preparation by the relevant authorities and is expected to be submitted to the House of Representatives in the very near future.

In addition, the Republic of Cyprus has taken the following practical measures necessary to deter and prevent terrorist activities:

1. The creation of a Mobile Immediate Action Unit consisting of a specialized Antiterrorist Squad.

2. The training and specialization of police officers in the investigation of terrorist activities, questioning techniques and hostage negotiations.

3. The patrol and surveillance of the coastal areas of Cyprus by air and sea to prevent unlawful entry.

4. The close cooperation and exchange of information with European, neighbouring and other countries.

5. Ratification of the International Convention for the Suppression of the Financing of Terrorism on November 30, 2001 (Cyprus became the 15th country to ratify the Convention).

Moreover, according to the Customs and Excise legislation in force, "any goods, substances or materials, including nuclear materials or substances, that are imported, landed, unloaded or are in the course of transit, contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment or convention which binds the Republic of Cyprus, shall be liable to forfeiture." The provision for the confiscation of goods applies also to goods exported contrary to any restriction or prohibition in force.

Import and export controls as regards prohibitions and restrictions in force, including weapons, have been bolstered since the terrorist attack of the September, 11 by:

- Controlling all export or transiting/trans-shipped cargo through the portal monitors (advanced detection X-ray pillars), as well as through scrutiny of relevant documentation submitted to Customs and the use of risk analysis methods, in order to prevent the illicit trafficking of weapons that cannot be detected by the portal monitors and other high technology equipment available. The aforementioned monitors are comprised of two large upright pillar sensors that

detect the presence of radioactive materials and are permanently mounted to allow truck and cargo container traffic to pass between them.

- Tightening controls on passengers, luggage and personal belongings at the entry/exit points of Cyprus, through strict passport scrutiny of all arriving and departing passengers, additional check of passengers and hand luggage at departure gates and 100% screening of all hold baggage.

- In the field of merchant shipping, the Republic of Cyprus implements the relevant UNSCR's. On Afghanistan it has implemented UNSCR 1333 (2000) and E.U common position 2001/154/CFSP which prohibit the transportation and supply by Cyprus ships of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts, to the territory of Afghanistan under Taliban control.

Sub-paragraph (b) — What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

M.O.K.A.S. has the authority to exchange information directly with counterpart FIU's, including the authority to forward any information it considers useful for another FIU without receiving any request (spontaneous information). These powers also include exchange of information on the financing of terrorism.

Furthermore, M.O.K.A.S. and the Cyprus Police can exchange information with the law enforcement authorities of other countries through INTERPOL channels.

Moreover, following the terrorist attacks of September 11, the Cyprus Police in close cooperation with other relevant authorities has taken the following additional measures:

1. Upgrade of the already existing mechanisms and the continuation and reinforcement of the cooperation with other countries, both at the bilateral and multilateral levels.

2. Increase of security measures at the entry and exit points of the Republic of Cyprus.

3. Guarding/patrolling and continuous surveillance of possible targets.

4. Strict passport scrutiny of arriving and departing passengers.

5. Increased screening of luggage.

6. 100% screening of all hold baggage.

7. Additional checks of passengers and hand luggage at departure gates.

8. Patrolling and surveillance of the coastal areas of Cyprus, by air and sea, so as to prevent the unlawful entry of terrorists into the country.

9. Checking/surveillance of suspected illegal immigrants.

10. Close cooperation with other relevant organizations and services.

The Central Information Agency of the Republic is an authority whose work is of vital importance to such areas of activities. This Agency is in close and direct cooperation with other such agencies worldwide provides and is being provided with information on a strictly confidential basis.

On December 12, 2001 the Council of Ministers approved the establishment of a Coordinating Unit to combat international terrorism. This unit will concentrate on areas of illegal arms sales and brokerage, illegal trafficking of arms, of explosives, of weapons of mass destruction, of harmful chemical substances and of dual-use items. This unit will have the jurisdiction to conduct questioning, collect data and exchange relevant information with related coordinating units of other countries for the purpose of the suppression of activities relating to terrorism.

This Coordinating Unit will function under the auspices of the Deputy Attorney General of the Republic. In order to ensure an immediate response reaction to any information relating to terrorist activities, this unit will be comprised of two advocates, members of the Law Office of the Republic, a representative of the Ministry of Justice and Public Order, three representatives from the Police Department, a representative from M.O.K.A.S., a representative from the Central Information Agency, and a specialist on analyzing electronic data. It is noted that in cases deemed necessary representatives from other authorities of the Republic will be involved.

In addition, the Department of Customs and Excise exchanges information with other law enforcement agencies through intelligence systems such as:

- C.E.N. System of World Customs Organization (WCO)
- BALKAN INFO SYSTEM
- MARINFO SYSTEM
- Antifraud Information System (A.F.I.S.)

The Department, in line with the recommendations of the World Customs Organisation on mutual administrative assistance, also exchanges relevant information with other Customs Administrations. The Department is also in close cooperation and regular contact with several Drugs Liaison Officers (DLO' S) and other officials stationed at their respective embassies in Cyprus and abroad.

Sub-paragraph (c) — What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

Measures to prevent the use of the Cypriot financial system by those who finance acts of terrorism are included in the anti-money laundering legislation and in the Guidance Notes (Circulars) issued by the existing Supervisory Authorities for the financial sector, mainly by the Central Bank of Cyprus.

Reference to these provisions is also included in the Ratification Law of the International Convention for the Suppression of the Financing of Terrorism, Law 29(III)/01. Moreover, the law regulating

freezing and confiscation of proceeds from predicate offences is applicable to all activities declared illegal by the International Convention for the Suppression of the Financing of Terrorism. In the same law there are provisions for mutual assistance while there is also the recently enacted law providing for International Co-operation in Criminal Matters (Law 23(1)/01).

In addition, severe penalties are provided for all activities related to acts of terrorism. The Courts of the Republic have the authority to order the freezing and confiscation of proceeds from such activities. Their jurisdiction also extends and covers all the cases mentioned in the international conventions pertaining to terrorism to which Cyprus is a contracting party.

All offences containing the element of terrorism and which are declared illegal by international conventions are punishable with severe penalties, including life imprisonment.

Penalties provided for offences created under the Conventions/Protocols against Terrorism

Conventions/Protocols	Penalties
1. Convention for the Suppression of Unlawful Seizure of Aircraft (Ratified by Law 30 /72)	Proposed amendment providing for 15-year imprisonment or £50.000 fine or both.
2. Convention on Offences and Certain other Acts Committed on Board Aircraft (Ratified by Law 31/72)	Amendments to the relevant Law are currently being drafted to include specific offences.
3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Ratified by Law 37/73)	Life imprisonment (under Supplementary Law No. 79/73)
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation	This Protocol is in the process of ratification. Proposed penalty identical to the one for offences under the Convention.
4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons Including Diplomatic Agents (Ratified by Law 63/75)	Penalties ranging from two years to life imprisonment.
5. European Convention on the Suppression of Terrorism (Ratified by Law 5/79)	No offences created.
6. International Convention against the Taking of Hostages (Ratified by Law 244/90)	Life imprisonment.
7. Convention on the Physical Protection of Nuclear Material (Ratified by Law 3(III)/98)	10 years imprisonment or £50.000 fine or both.

8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Ratified by Law 17(III)/99)	15 years imprisonment and life imprisonment.
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Ratified by Law 17(III)/99)	15 years imprisonment and life imprisonment (for aggravated offences).
9. International Convention for the Suppression of Terrorist Bombings (Ratified by Law 19(III)/00)	15 years imprisonment or £10.000 fine or both.
10. International Convention for the Suppression of the Financing of Terrorism (Ratified by Law 29(III)/01)	15 years imprisonment or £1.000.000 fine or both.
11. Convention on the Marking of Plastic Explosives for the Purposes of Detection	This Convention is in the process of ratification. Proposed penalty, 5 years imprisonment or £5.000 fine or both.

N.B. The Ratification Laws of the aforementioned Conventions are in the process of being published in a special edition by the Law Commissioner of the Republic.

Regarding immigration policy, strict immigration laws exist and any person with a criminal record or any immigrant who does not seek political asylum and who does not enter Cyprus for a legitimate purpose (employment, residence or tourism) is expelled. Also persons whose activities in Cyprus may be directed against other states are liable to deportation.

Furthermore, according to Article 5 of the Refugee and Asylum Seekers Law, (Law 6(II)/00) which provides for the examination of asylum applications, asylum is denied in the case of a person against whom there are serious allegations that the person:

1. Has committed a crime against peace, a war crime, or a crime against humanity as defined in the Geneva Convention of 1951,

2. Has committed a serious non political crime in another country prior to his/her admission to the Republic or,

3. Has been guilty of acts contrary to the purposes and principles of the United Nations.

(It is noted that since the Refugee and Asylum Seekers Law has just been recently implemented, the screening of asylum seekers, at present, is being done in parallel with the UNHCR).

Moreover, according to the article 14(1) of the Aliens and Immigration Law, the Immigration Officer has the authority to order any alien who is a prohibited immigrant to be deported from the Republic of Cyprus. A prohibited immigrant is considered to be any undesirable person, or any person who is shown by evidence to be likely to conduct himself/herself so as to be dangerous to peace and good order, or any member of an unlawful organisation as defined in section 63 of the Criminal Code [Aliens and Immigration Law, article 6(1) (f), (g) and (h)]. Section 63 (a)(ii) of the Criminal Code specifies that unlawful association means any body or person which incites or encourages "the overthrow by force or violence of the established government of the Republic or of any other civilized country, or of an organized Government".

Sub-paragraph (d) — What legislation or procedure exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.

Please refer to answer for (c) above.

Sub-paragraph (e) — What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

The Ratification Law of the International Convention for the Suppression of the Financing of Terrorism criminalizes as serious offences the financing of the terrorist acts contained in the International Conventions listed in the Annex to this Convention and provides for serious penalties: 15 years imprisonment and/or CY£1.000.000 fine.

Furthermore, the provisions in the domestic Criminal Code which could be applied to acts of terrorism, with the penalties provided for each one are the following:

S.42	Inciting to mutiny.	Life imprisonment.
S.43	Aiding soldiers or policemen in acts of mutiny.	Misdemeanour.
S.44	Inducing soldiers or policemen to desert.	Imprisonment for six months.
S.45	Aiding prisoners of war to escape.	Life imprisonment Misdemeanour.
S.47	Seditious conspiracy and publications with seditious intention.	Five years imprisonment.
S.50	Publication of false news.	Two years imprisonment or fine of five hundred pounds or both.
S.50A	Publication of news, etc., relating to defence works, etc.	Six years imprisonment.
S.50C	Espionage.	Ten years imprisonment.
S.51	Encouraging violence and promoting ill will.	Twelve months imprisonment.
S.51A	Procurement or incitement to acts of violence, etc.	Twelve months imprisonment or fine of one thousand pounds or both. In case of a body corporate fine of three thousand pounds.
S.52	Unlawful oaths to commit capital offences.	Life imprisonment.
S.53	Other unlawful oaths to commit offences.	Seven years imprisonment.
S.55	Unlawful training.	Seven years imprisonment.
S.56	Membership of an unlawful association.	Three years or seven years imprisonment.
S.57	Advocating and encouraging unlawful association.	Five years imprisonment.
S.58	Giving or soliciting contributions for an unlawful association.	Five years imprisonment.
S.59	Possession of documents having a seditious intention and publication, etc. propaganda of unlawful association.	Three years imprisonment and confiscation of documents.
S.80	Carrying arms to terrorise.	Two years imprisonment, and confiscation of arms or weapons.
S.91	Threatening violence.	Three years imprisonment.
S.92	Possessing firearms with intent to injure.	Five years imprisonment.

S.108A	Use of uniform by unauthorized persons.	Twelve months imprisonment or a fine of three hundred pounds or both.
S.109	Impersonating public officers.	Three years imprisonment.

N.B. Please refer also to the answer for 2(c) where a table of "penalties provided for offences created under Conventions against Terrorism" is included.

Sub-paragraph (f) — What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

The Republic of Cyprus is a party to a number of multilateral agreements for cooperation and legal assistance between the countries that are parties to these Conventions. It also utilizes bilateral agreements for cooperation in combating organized and other forms of crime, as well as bilateral agreements for cooperation in legal, judicial and criminal matters.

The Cyprus Police is in close cooperation and exchanges information with the USA, the Member States of the EU and other neighbouring countries, International Organisations, such as INTERPOL and EUROPOL.

Based on this co-operation, the Cyprus Police received recognition by INTERPOL when in 1998 a member of the Japanese "Aum Shrinkyo" terrorist organization was arrested by police in Cyprus and was deported in a manner that allowed for his eventual handing over to Japan for trial. This was achieved mainly through the concerted efforts of INTERPOL General Secretariat and contributions by other related N.C.B' s. The individual (Toshiyasu Ohuchi) was apprehended in relation to the investigation concerning the sarin gas attack in the Tokyo underground on 20.3.95.

In addition, the Department of Customs and Excise, within the framework of criminal investigations and proceedings, provides assistance through the European Convention on Mutual Assistance in Criminal Matters, which has been ratified by the Republic of Cyprus, through the relevant national enabling legislation, as well as through the recommendation of the WCO on mutual administrative assistance and other commitments arising from conventions (i.e. bilateral agreements, MOU'S).

Please refer also to answers for 2(b), (c) and (e).

Sub-paragraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

The movement of terrorists or terrorist groups is prevented by effective controls, including controls on issuance of identity papers and travel documents and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents.

It should be noted that since the 1974 invasion of the Republic of Cyprus by Turkey, almost 36% of the territory of the Republic of Cyprus is under Turkish military occupation and therefore under the total control of Turkey. In order to effectively control passage into the territory under the control of the Government of the Republic of Cyprus, the authorities of the Republic take into serious consideration any information regarding terrorists, conveyed by INTERPOL, International Organizations, Governments and Security Council Sanctions Committees, and place the particulars of such persons on a relevant Stop List in order to prevent the movement of terrorists and other undesirable persons.

Moreover, Cyprus, within the framework of the harmonization of its legislation with the Acquis Communautaire, is implementing/will implement the following measures in order to contain the movement of the aforementioned category of individuals/or groups:

(a) Issuing of uniform format visas as provided for in the Schengen Acquis

(b) Consultations with EUROPOL with a view to signing a co-operation agreement

(c) Updating the national information system

(d) Purchasing of additional equipment for coastal surveillance radar systems, airplanes, helicopters and speed boats with special equipment

(e) Purchasing of additional forgery detection equipment to detect false documents and visas

(f) Issuing of new passports with security features in order to prevent forgery

(g) Personnel training in border control matters

(h) Providing the necessary training to carriers transporting passengers to Cyprus so as to be able to fully adhere to the provisions of the Carriers Liability Law, which will enter into force upon accession to the European Union.

Regarding merchant shipping, one hundred percent verification of the Certificates of Competency of Masters and Officers serving on Cyprus flag ships is carried out before the issuance of certificates attesting the recognition of a foreign Certificate of Competency as required by the IMO International Convention on Standards of Training, Certification and Watchkeeping of Seafarers, 1978, as amended.

It is noted, in particular, that each seafarer registered in the system is assigned a unique Cyprus Identification Number which is shown on every certificate issued to the seafarer by the Cypriot Maritime Authorities. It is clarified that the system has the capability of tracing a seafarer who has been assigned a Cyprus Identification Number and who attempts to be re-register with different personal details.

Operative Paragraph 3

Sub-paragraph (a) — What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

The Republic of Cyprus is taking steps to intensify and accelerate the exchange of operational information, in particular with the aim of countering actions or movements of terrorist persons or networks, forged of falsified travel documents, trafficking of arms, explosives or sensitive materials, use of communications technologies by terrorist groups and the threat posed by the possession of weapons of mass destruction by terrorist groups.

Apart from the measures for exchanging information mentioned in sub-paragraph 2(g), Cyprus has adopted the Joint Principle for the exchange of data in CIREFI and CIREA which are the European Council's working groups dealing with the exchange of information on illegal and irregular immigration and on refugees, accordingly.

In addition, import and export controls in force as regards prohibition and restrictions including weapons, have been enhanced since the terrorist attacks of September 11, by:

- Controlling all export or transiting/transshipped cargo through the portal monitors. Depending on the case in question, other available equipment can be used. In addition, through the scrutiny of relevant documentation submitted to customs and the use of risk analysis methods, other suspected goods can be identified, and thus enable the prevention of illicit trafficking of weapons which might not be detected by the portal monitors and other high technology equipment available.

- Tightening controls of passengers, luggage and personal belongings at the entry/exit points of Cyprus, through strict passport scrutiny of all arriving and departing passengers, additional check of passengers and hand luggage at departure gates and 100% screening of all hold baggage.

Based on the WCO recommendation on mutual administrative assistance and other conventional commitments, any findings that may be derived either by scrutiny of documents, or by examination of goods or by any other control method are immediately reported to the states concerned.

Additionally, as regards merchant shipping every seafarer employed on a Cyprus ship is required to register in the Seafarers' Register kept by the Cyprus Maritime Administration. Foreign Authorities may have direct access to relevant data maintained in the Seafarers' Register database to verify the validity and authenticity of various certificates and documentary evidences issued by the Government of the Republic of Cyprus, as well as the identities of the seafarers.

Should the international shipping community decide to establish an international seafarer's register, as strongly recommended by the Seafarers' International Research Centre of Cardiff University in its study regarding fraudulent practices associated with certificates of competency and endorsements, all data maintained in the Cyprus Seafarers' Register can be easily transferred to such an international database.

The system is at present partially operational and it is anticipated that it will be fully operational within the year 2002.

Sub-paragraph (b) — What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

As already mentioned at answers for 2 (b), (c) and (f) above, the Cyprus Police is in close co-operation and exchanges information with many countries and International Organisations, such as INTERPOL and EUROPOL, in order to prevent the commission of terrorist activities.

Sub-paragraph (c) — What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

The Republic of Cyprus has signed 16 bilateral agreements with: Bulgaria, China, the Czech Republic, Egypt, Greece, Hungary, Israel, Italy, Malta, Poland, the Russian Federation (valid also for Ukraine, Belarus and Georgia), the Slovak Republic and Syria.

In addition, the Republic of Cyprus has signed bilateral agreements in the field of merchant shipping with several countries where, although there is no direct reference for measures against terrorism, it is stated that each contracting party reserves the right to deny entry to its territory to seamen whom it considers undesirable.

Please, refer to **Annex I** for a detailed account of the measures taken by the Republic of Cyprus after September 11.

Sub-paragraph (d) — What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

As already indicated in the answer to question 2 (a) the Republic of Cyprus is party to ten of the twelve International Conventions pertaining to international terrorism, as well as the relevant Convention of the Council of Europe. It is recalled that on November, 30 2001, the Instrument of Ratification of the Republic of Cyprus for the International Convention for the Suppression of the Financing of Terrorism was deposited with the Secretary General of the United Nations, making Cyprus the 15th country to ratify the above mentioned Convention.

The Ratification Law of the aforementioned Convention includes:

1. Setting of penalties for relevant criminal acts in the fulfilment of the obligations arising from provisions of the Convention.

2. Inclusion, in the national legislation, of provisions necessary for the enactment of provisions in the Convention, which are not self-implemented.

3. Determining, with the view to facilitating conformity with the provisions of the Convention, those criminal acts defined as such by the provisions of national legislation on concealment, investigation, and confiscation of assets from certain crimes.

4. Enlarging in size and expanding in mandate the Unit for Combating Financial Crime (M.O.K.A.S.), which will now accommodate a special department devoted to investigating and acting upon criminal acts as derived from the Convention.

In addition, the Republic of Cyprus is in the process of ratifying the remaining two International Instruments relating to terrorism, a process that is expected to be concluded in the very near future. These are:

1. The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, complementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft — Montreal 24.02.88. The draft Ratification Bill for this Protocol has already been submitted to the House of Representatives of the Republic of Cyprus.

2. International Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1.03.91. The legal scrutiny of this Convention has been completed and the proposal for submission to the Council of Ministers of the draft Ratification Bill is currently under preparation by the relevant authorities and is expected to be submitted to the House of Representatives in the very near future.

Sub-paragraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

The Government of the Republic of Cyprus reiterates that it fully recognizes the existence and the dimensions of international terrorism and the need to suppress the financing of terrorism. The fight against international crime, particularly terrorism, through international cooperation, full implementation of all relevant international conventions and protocols relating to terrorism as well as Security Council Resolutions 1269(1999) and 1368 (2001), is a top priority of the Republic of Cyprus.

The Government is committed to joining forces with all governments on a bilateral level as well as in international fora in the struggle to eliminate terrorism. This determination has been explicitly stated at the highest level with the assurance that all practical measures are carried out in cooperation with the international community and in line with the obligations deriving from the relevant resolutions and the relevant international conventions/protocols, to which Cyprus is a party.

Sub-paragraph (f) — What legislation, procedures and mechanisms are in place for ensuring that asylum seekers have not been involved in terrorist activities before granting refugee status. Please supply examples of any relevant cases.

The Ministry of Interior is taking all appropriate measures, in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts.

Please refer to the answer for 2 (c) above and 3 (g) below.

Sub-paragraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures, which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

The Ministry of Interior of the Republic ensures, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists.

According to article 5 of the Refugee and Asylum Seekers Law, which provides for the examination of asylum applications as well as the refugee status to aliens, the provisions of this Law shall not apply in the case of a person against whom there are serious allegations that the person:

a) Has committed a crime against peace, a war crime, or a crime against humanity as defined in the Geneva Convention of 1951,

b) Has committed a serious non political crime in another country prior to his admission to the Republic or,

c) Has been guilty of acts contrary to the purpose and principles of the United Nations.

In order to ensure that refugee status is not abused by any perpetrators, organizers or facilitators of terrorist acts, an extensive interview of the asylum seeker is conducted. During the interview, the competent officer assesses the credibility of the asylum-seeker and evaluates the evidence produced by him/her; ensures that the asylum seeker presents his/her case as fully as possible, and with all available evidence, and gives credible explanations for all the reasons supporting his/her application; and may make any further investigation considered necessary.

Moreover, the Refugee Authority may recommend the deportation of a refugee if this is considered necessary or desirable on grounds of national security or public order (Refugee Law, Article 29).

It is noted that currently training seminars are being organized by the UNHCR for the officers of the Refugee Authority. The Refugee Authority is expected to take over the interviewing of asylum seekers from the beginning of 2002.

Please refer also to answer for 3(f) above.

Information regarding issues covered by Paragraph 4

The Republic of Cyprus has taken measures for the preparation of a national plan for combating threats from nuclear, biological and chemical weapons. It is noted that at the extraordinary meeting organized by the European Union (11-12.10.2001) for the Directors of Civil Protection of the European Union member states, of the European Economic Area and of the candidate countries, it was decided that the Civil Protection Authorities of each country should take specific measures for the effective response to major attacks and in particular to threats from nuclear, biological and chemical weapons.

In parallel, instructions were given to the Department of Customs and Excise Administration and to the district senior customs officers to strengthen the controls at the points of entry/exit (ports, airports and parcel posts), specified as follows:

- Increase screening of passengers' luggage and handbags and checking for prohibited or restricted goods, as well as any item that could be dangerous for the safety of the passengers traveling by air or sea.
- Frequent patrols at the customs areas of the ports and airports with random checks of employees and vehicles used by them.
- Closer cooperation and coordination between the Department of Customs & Excise and the other agencies involved in such controls.

All Customs officers were informed by circular letters of the necessity to be on heightened alert regarding the prohibitions and/or restrictions concerning:

- Countries subject to embargoes imposed by the United Nations Security Council.
- Transit/transshipments or exports of dual use goods and other sensitive materials.
- Extensive use of the available equipment for the detection of radioactive materials, the identification of dual use goods and other concealed materials.
- Establishment of a system for the recording of the results of all controls made by the available means/equipment of controls at the disposal of the authorities.

Moreover, in order to perform more efficient controls through the portal monitors installed at Limassol port, a control plan has been created. According to the plan, all outgoing cargo, either transiting/ transshipped cargo or other exported cargo is screened by the portal monitors.

A National Risk Assessment Document has been updated in order to assist in the proper analysis of the risk involved in all areas where customs control is exercised, in which a specific analysis has been carried out in respect of such items and controls.

Priority of training of personnel has been given to export control as well as to prohibitions and restrictions related issues. To this end, twenty Customs Officers have participated at a transshipment enforcement workshop organized in cooperation with the United States Government in Cyprus during November 2001. Twenty more officers have been trained by specialists assigned by the EU TAIEX program, in passenger examination and interviewing techniques, while Customs Officers and officials from other government departments took part in a week-long exports control seminar organized by the UK government in November.

Through an electronic system the Department monitors cash movements of currency in/out of Cyprus. The Department also monitors the trafficking of valuable and other goods that may be used for money laundering purposes and the methods used for their payment.

Additionally, the Department of Customs and Excise exchanges information with other law enforcement agencies through intelligence systems such as:

- C.E.N. System (WCO)
- BALKAN INFO SYSTEM
- MARINFO SYSTEM
- A.F.I.S. (Antifraud Information System).

The Department, in line with the recommendation of the WCO for mutual administrative assistance, also exchanges pertinent information with other customs administrations. Moreover, the Department is in close cooperation and regular contact with several DLO' S (Drugs Liaison Officers) and other officials stationed at their respective embassies in Cyprus and abroad. Besides this, the Investigation & Narcotics Section at Customs Headquarters and the preventive services located in customs stations are staffed with experienced officers trained in investigative techniques and law enforcement methods.

The Department also utilizes information received from the Australia Group and Nuclear Suppliers Group regarding dual–use goods of the AG and NSG control lists, while it has already signed MOU'S with the Cyprus Police, the Shipping Agents Association, Cyprus Airways and courier services. Furthermore, an MOU on mutual administrative assistance has already been signed with United Kingdom's Customs Department, whereas bilateral agreements have also been signed with the United States of America, Greece and Israel.

Cyprus is fully committed to contributing to all international efforts against terrorism and terrorist related activities. Likewise, Cyprus also recognizes that recent events underlined and brought into sharper focus the need for the members of the international community, both individually and collectively, to redouble their efforts in a concerted and coordinated manner to fight terrorism and its sponsorship.

Please, refer to **Annex I** for a detailed account of the measures taken by the Republic of Cyprus after September 11.

December 2001

Annex I

International terrorism/position of the Republic of Cyprus

General

- The Government of the Republic of Cyprus wishes to reiterate that it fully recognizes the existence and the dimensions of this international problem. The fight against international crime, particularly terrorism, through international cooperation, is one of the top priorities of the foreign policy of Cyprus.

- The Government reaffirms its commitment to join forces with all Governments on a bilateral level as well as in international fora in the struggle to eliminate terrorism. This determination has been explicitly stated at the highest level with the assurance that all practical measures will be taken in cooperation with the international community and in line with the obligations deriving from the relevant international treaties which Cyprus is party to.

- Cyprus has, to date, ratified or acceded to ten of the twelve international conventions pertaining to international terrorism, as well as the relevant Convention of the Council of Europe. Specifically, Cyprus is party to the four main relevant Conventions, which are deposited with the Secretary General of the United Nations, namely the "International Convention for the Suppression of the Financing of Terrorism", the "International Convention for the Suppression of Terrorist Bombings", the "International Convention Against the Taking of Hostages" and the "International Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons including Diplomatic Agents".

Terrorist Attacks Against the United States on September 11, 2001.

- On September 11 the world watched with horror the massive destruction and suffering caused by the shocking events that took place in the United States. These criminal acts of terrorism were condemned unreservedly by the Republic of Cyprus. The attacks were not only attacks against the United States but also an assault against humanity and the fundamental principles of civilization.

- Our fight is against terrorists and terrorism and not against a culture or religion or between cultures or religions. Cyprus therefore associates itself fully with the statement made at the extraordinary European Council on September 21st rejecting "any equation of groups of fanatical terrorists with the Arab or Muslim world".

- The events of September 11th underlined and brought into sharper focus the need for the members of the international community, both individually and collectively, to redouble their efforts in a concerted and coordinated manner to fight terrorism and its sponsorship.

- Those involved in sponsoring terrorism have sought to use international financial facilities for their criminal activities. In this, the Government fully recognizes the importance of having strict anti-money laundering measures in place and the need to cut off the funding and sustaining of terrorism. The Republic of Cyprus is recognized both by individual countries such as the US and leading global anti-money laundering organizations, including FATF that it has a comprehensive anti-money laundering system and that the Central Bank has in place a strict regulatory framework aimed at preventing abuses within the offshore sector.

- Following the attacks on September 11th, Cyprus has taken additional measures in the form of heightened vigilance and security measures as well as increased efforts to locate and freeze any terrorist assets. These measures and actions have, to date, included the following:

- **12.9.2001** The Ministry of Foreign Affairs issued a press release that unconditionally condemned the terrorist attacks while offering the condolences of the Government and the people of the Republic of Cyprus to President Bush and the American people.

- On the same date the Republic of Cyprus aligned itself with the statement of the Presidency of the European Union in condemning these acts of terrorism.

- **20.9.2001** The Central Bank of the Republic of Cyprus issued a circular to all Commercial Banks and International Banking Units (IBUs) in Cyprus requesting the freezing of potential funds and other financial resources belonging to persons/ organizations and/or entities associated with Osama bin Laden and the Taliban. Similar circulars were also sent on **27.9.2001** and **2.10.2001.**

  Note: The above circulars include lists of persons (individuals and entities) designated as being associated with the Taliban and Osama bin Laden, by the Security Council Committee on Afghanistan (acting under SCR 1267 (1999) and 1333 (2000) as well as the persons/entities included in the Executive Order issued by President Bush on September 23, for the blocking of assets of terrorists or terrorist organizations.

- **21.9.2001** The Republic of Cyprus aligned itself with the conclusions and plan of action adopted at the extraordinary European Council meeting in Brussels.

- **23.9.2001** The Ministry of Foreign Affairs sent a letter to the appropriate authorities calling for detailed information on measures taken to heighten security in the Republic.

- **25.9.2001 – 2.10.2001** The Department of Customs of the Ministry of Finance, the Ministry of Communications and Works and the Ministry of Justice and Public Order inform the Ministry of Foreign Affairs respectively that heightened vigilance, surveillance and security measures are in place.

- The authorities have, inter alia, implemented additional measures concerning security checks of all individuals at entry and exit points of the Republic, including the need for

crew to pass security control and obtain clearance before entering the premises of any airport. Security presence and patrols have been bolstered especially in sensitive areas. In addition, strict passport scrutiny of all arriving and departing passengers is in place. Additional measures concerning screening of luggage are being taken, including the introduction of 100% screening of all hold baggage checked at Larnaca and Pafos Airports and additional checks of passengers and hand luggage at departure gates. All domestic/international private or pleasure light aviation flights are at present not permitted. Increased inspection of containers/cargoes is being carried out by the Customs Authorities.

- **29.9.2001** The Ministry of Foreign Affairs sent to all relevant authorities a copy of UNSCR 1373 of 28.9.2001 regarding the call for joint action and measures to be taken by each member-state of the international community in the common endeavour against international terrorism.

- **2.10.2001** Supplementary Circular sent by the Central Bank to all Commercial Banks and International Banking Units (IBUs) regarding the freezing of potential assets/accounts of any person/entity associated with Osama bin Laden and Al Qaida as designated by UNSCRs 1267, 1333 and the relevant Executive Order (23.9.2001) issued by President Bush.

- **4.10.2001** Decision of the Council of Ministers instructing all relevant authorities of the Republic to investigate the existence of potential assets/accounts of any person/ organization or entity associated to Osama bin Laden and Al Qaida Organization as designated by UN SC Res. 1267, 1333 and the relevant Executive Order (23.9.2001) issued by President Bush.

- **4.10.2001** The Council of Ministers grants facilities to US military aircraft throughout the Republic's sovereign air space and the right to use its airports for an unlimited period of time following a request from the United States.

- **4.10.2001** The Ministry of Foreign Affairs notifies the Department of Customs of its agreement following the affirmative opinion of the Attorney-General of the Republic for the immediate acceptance of the completion of the procedures to sell to the Government of the United States of America "nuclear reactor plant equipment" and six packages of Zirconium, which were confiscated by the Cypriot authorities.

  Note: The nuclear reactor, which is U.S. made was brought to Cyprus in transit, in 1995. However, the export from the United States was carried out illegally since the necessary export permit from the Nuclear Regular Commission of the U.S. Congress had not been acquired. Instead in the export description the reactor was labeled as "power plant equipment". Despite the fact that this was exported as plant equipment and subsequently imported in Cyprus as such, when it was found that its was in fact a nuclear reactor the authorities of the Republic of Cyprus took every step to withhold the merchandise by confiscating it, even though there was no illegality in the import procedure. In parallel, the Cypriot authorities tried to sell the reactor in a way that would have been in accordance with International Conventions binding the Republic, so that it would not be misused in any way.

  During the same time period six packages of Zirconium were imported in transit from a third country under similar circumstances, namely an illegality in the export procedures. It is noted that Zirconium is included in the trigger list of dual use items and was also confiscated by the Cypriot authorities.

  Following an affirmative opinion of the Attorney-General of the Republic the Customs Office put up for public auction the reactor and the Zirconium packages, in line with the relevant legal mechanism of the Republic, to which the United States Government responded with detailed proposals for both. These proposals were accepted by the Republic of Cyprus.

- **8.10.2001** Foreign Minister Kasoulides made the following statement: "The Government of Cyprus has taken note of the commencement of the military operations which are targeting international terrorism, its headquarters and the regime that its

harbouring the headquarters and the camps of the international network of Osama bin Laden". The Minister also noted that this operation is part of the overall campaign against terrorism that includes diplomatic, political and economic objectives. He added that "Cyprus appreciates the statements made by President Bush and Prime Minister Blair and in particular that this military operation is not targeting the people of Afghanistan or innocent civilians, but is targeting specifically the terrorists and the regime that its harbouring them". The Minister also stated that Cyprus is among the 40 countries, mentioned by President Bush in his statement, that have offered air space and landing rights to US military aircraft taking part in this operation and that "Cyprus considers itself a member of the coalition which along with other European countries, but also Moslem countries, and in particular friendly countries of the Arab world, are also participating in the fight against terrorism".

- **8.10.2001** Cyprus aligns with a statement by the General Affairs Council of the EU, which declares the full solidarity with the US concerning the operations in Afghanistan.

- **10.10.2001** Council of Ministers approved a Bill titled "Law for the Ratification of the International Convention for the Suppression of the Financing of Terrorism" and authorized its immediate submission to the House of Representatives.

This Bill includes:

1. The Ratification of the International Convention for the Suppression of the Financing of Terrorism that Cyprus signed on 1.03.2001.

2. Setting of penalties for relevant criminal acts in the fulfillment of the obligations arising from provisions of the Convention.

3. Inclusion, in the national legislation, of provisions necessary for the enactment of provisions in the Convention, which are not self-implemented.

4. Determining, with the view to facilitating conformity with the provisions of the Convention, those criminal acts defined as such by the provisions of national legislation on concealment, investigation, and confiscation of assets from certain crimes.

- **17.10.2001** Supplementary Circular sent by the Central Bank to all Banks operating in Cyprus calling for the immediate freezing of any assets belonging to the 39 individuals entities identified in Executive Order 13224.

- **22.10.2001** The House of Representatives approved the aforementioned Bill ratifying the International Convention for the Suppression for the Financing of Terrorism.

N.B. The draft Ratification Bill includes a special provision that calls for the enlargement in size and expansion of mandate of the already existing unit for combating financial crime (M.O.K.A.S.) which will from now on accommodate a special department devoted to investigating and acting upon criminal acts, as derived from the Convention.

- **28.11.2001** The draft Ratification Bill for the "Protocol in the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation", which was approved by the Council of Ministers at 31.10.2001, has been submitted to the House of Representatives.

N.B. Regarding the only other international convention on terrorism whose ratification is pending by the Republic of Cyprus (Convention on the Marking of Plastic Explosives for the Purpose of Detection), it is noted that, the legal examination of this Convention has been completed and the proposal for submission to the Council of Ministers of the draft Ratification Bill is currently under preparation and is expected to be submitted to the House of Representatives in the near future.

- **28.11.2001** The Council of Ministers approves a draft Bill amending the Criminal Code. The Bill criminalizes participation in a criminal organisation in accordance with

the Common Act adopted by the Council of the European Union (98/733/JHA). According to the provisions of the Amending Bill, a criminal organisation is defined as a group that exists for at least six months and consists of three or more individuals, with the common purpose to commit serious criminal offences. The said draft Bill is currently before the House of Representatives of the Republic.

- **30.11.2001** The Instrument of Ratification of the Republic of Cyprus for the International Convention for the Suppression of the Financing of Terrorism is deposited with the Secretary General of the United Nations. Cyprus becomes the 15th country to ratify the above-mentioned Convention.

- **12.12.2001** The Council of Ministers of the Republic approves the establishment of a Coordinating Unit to combat international terrorism. This unit will concentrate on areas of illegal arms sales and brokerage, illegal trafficking of arms, of explosives, of weapons of mass destruction, of harmful chemical substances and of dual-use items. This unit will have the jurisdiction to conduct questioning and investigations, collect data and exchange relevant information with related coordinating units of other countries for the purpose of the suppression of activities relating to terrorism.

  This Coordinating Unit will function under the auspices of the Deputy Attorney General of the Republic. In order to ensure an immediate response reaction to any information relating to terrorist activities, this unit will be comprised of two advocates, members of the Law Office of the Republic, a representative of the Ministry of Justice and Public Order, three representatives from the Police Department, a representative from M.O.K.A.S., a representative from the Central Information Agency, and a specialist on analyzing electronic data. It is noted that in cases deemed necessary representatives from other authorities of the Republic will be involved.

December 2001

Annex II

RESOLUTION 1373 (2001)

OF THE SECURITY COUNCIL

A note prepared by the Law Commissioner

Nicosia, 5th December, 2001.

Law Commissioner's Office

Resolution 1373 (2001) of the Security Council

1. The Republic of Cyprus has ratified all conventions relating to acts of terrorism and which are listed in Appendix A with the exception of Protocol under serial number 3(b) of the Appendix which is in the process of ratification.

2. Severe punishments are provided for all such activities with power of the Court to order the freezing and confiscation of proceeds from such activities. Also the jurisdiction of the Cyprus Courts is extended to all the cases mentioned in the Conventions.

3. The procedure for freezing and confiscation of assets derived from predicate offences is laid out in a comprehensive law containing inter alia provisions for the investigation of offences falling within the scope of the law by a specially constituted body of investigators headed by a senior legal officer. It also contains provisions for lifting confidentiality and other provisions necessary for making the disclosure of money laundering effective.
Copy of the Law in English is set out in Appendix B.

4. There are no specific provisions in the domestic legislation regarding recruitment of terrorists or the supply of weapons to terrorists but there are provisions in the Criminal Code which are of general application and could be applied in cases of terrorism (examples section 55 providing for unlawful drilling, section 56 making the membership of an unlawful association illegal, section 53 providing for unlawful oaths to commit offences). Moreover under the Firearms Law (38 of 1974 and 27 of 1978) and the Explosive Substances Law (Cap. 54), the possession and carrying

of firearms and explosive substances is prohibited, entailing severe punishments for the offender.

A list of the relevant provisions of the Criminal Code is given in Appendix C with the penalties in brackets.

5. The laws regarding immigration are strict and any person with criminal record or any immigrant who does not seek political asylum and who does not enter Cyprus for a legitimate purpose (employment, residence or tourism) is expelled. Also persons whose activities in Cyprus may be directed against other states are liable to expulsion.

6. All offences containing the element of terrorism and which are declared illegal by international conventions are punishable with severe penalties some of them up to life imprisonment. (See Appendix A).

7. The law regulating freezing and confiscation of proceed from predicate offences is applicable to all activities declared illegally by the Convention against Terrorism. In the same law there are provisions for Mutual Assistance. There is further a recently enacted law providing for International Co-operation in Criminal Matters (Law 23(1) of 2001).

8. The Refugee and Asylum Seekers Law is a recent one and the screening, at present, is being done by the UNHCR until the training of civil servants is completed.

9. All the Conventions will be published in a special edition with notes of the editor.

4th December, 2001.

APPENDIX A

Penalties provided for offences created under the Conventions against terrorism

	Conventions	Penalties
1.	Convention for the Suppression of Unlawful Seizure of Aircraft (Ratified by Law 30 of 1972)	Proposed amendment providing for 15 year imprisonment or £50.000 fine or both.
2.	Convention on Offences and Certain other Acts Committed on Board Aircraft (Ratified by Law 31 of 1972)	No offences created.
3.	(a) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Ratified by Law 37 of 1973)	Life imprisonment (under supplementary law No. 79 of 1973)
	(b) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation	This Protocol is in the process of ratification. Proposed penalty same as for offences under the Convention.
4.	Convention on the Prevention and Punishment of Crimes against Internationally Protected Person Including Diplomatic Agents (Ratified by Law 63 of 1975)	Penalties ranging from up to two years to life imprisonment.
5.	European Convention on the Suppression of Terrorism (Ratified by Law 5 of 1979)	No offences created.

6.	International Convention against the Taking of Hostages (Ratified by Law 244 of 1990)	Life imprisonment.
7.	Convention on the Physical Protection of Nuclear Material (Ratified by Law 3(III) of 1998)	10 years imprisonment or £50.000 fine or both.
8.	(a) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Ratified by Law 17(III) of 1999)	15 years imprisonment and life imprisonment.
	(b) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Ratified by Law 17(III) of 1999	15 years imprisonment and life imprisonment.
9.	International Convention for the Suppression of Terrorist Bombings (Ratified by Law 19(III) of 2000)	15 years imprisonment or £10.000 fine or both.
10.	International Convention for the Suppression of the Financing of Terrorism (Ratified by Law 29(III) of 2001)	15 years imprisonment or one million pounds fine or both.
11.	Convention on the Marking of Plastic Explosives for the Purposes of Detection	This Convention is in the process of ratification. Proposed penalty 5 years imprisonment or £5.000 fine or both.

APPENDIX B

THE PREVENTION AND SUPPRESION OF MONEY LAUNDERING ACTIVITIES LAW

Principal Law: 61(I) of 1996

Amending Laws: 25(I) of 1997
41(I) of 1998
120(I) of 1999*
152(I) of 2000*

*Note:

This is the consolidated version of the law which the incorporation of the amendments effected till 1998. Since then there were two more amending laws, Law No. 120(I) of 1999 and Law No. 152(I) of 2000 which were not included in the consolidation.

The amendments are minor and affect sections 2, 4, 5, 7, 62(2) and 65(2)(d). The most important amendment is the deletion and substitution of section 5 (effected by Law 152(I) of 2000). The new section 5 provides that predicate offences are all offences which are punishable with a maximum imprisonment for over one year as a result of which proceeds were generated that may become the subject of a laundering offence define in section 4.

THE PREVENTION AND SUPPRESSION OF MONEY LAUNDERING ACTIVITIES LAW

ARRANGEMENT OF SECTIONS

PART I - INTRODUCTORY PROVISIONS

Section

1. Short title.
2. Interpretation.
3. Prescribed offences.
4. Laundering offences.
5. Predicate offences.

PART II - CONFISCATION ORDERS, INTERIM ORDERS AND OTHER MEASURES

A. Confiscation Orders

6. Inquiry in order to determine whether the accused acquired proceeds.
7. Assessing the proceeds from the commission of a predicate offence.
8. Confiscation order.
9. Procedure for enforcing a confiscation order. Table.
10. Procedure for enforcing an order for the confiscation of means.
11. Statement of facts and particulars.
12. Amount to be recovered under a confiscation order.
13. Realizable property and other principal terms.

B. Temporary Orders

14. Restraint order.
15. Charging order.
16. Supplementary provisions.

C. Other measures

17. Appointment of a receiver.
18. Order for sale of stock.
19. Application of proceeds from the realization of property.
20. General principles in exercising certain powers.
21. Variation of a confiscation order.
22. Bankruptcy of the accused.
23. Winding up of a company holding realizable property.
24. Receiver. Supplementary provisions.
25. Compensation.
26. Special defences for persons assisting another for the commission of laundering offences.
27. Other offences in connection with prescribed offences.
28. Confiscation order where the accused has died or absconded.
29. Power to set aside a confiscation order where the accused who had absconded returns.
30. Variation of a confiscation order made under section 28.
31. Prohibition of publicizing information.

D. Freezing and confiscation orders of property against an absent suspect

32. Freezing order of property against an absent suspect.
33. Confiscation of property order against an absent suspect.

34. Compensation paid to an absent suspect against whom an order for the freezing or confiscation of his property was made.

PART III - RECONSIDERATION AND REVISION OF CONFISCATION ORDERS

35. Reconsideration of a case.
36. Re-assessment of proceeds.

PART IV - INTERNATIONAL CO-OPERATION

37. Interpretation of principal terms.
38. Procedure for the enforcement of foreign orders.
39. Effect of registration.
40. Cancellation of registration.
41. External order shall be binding.
42. Amount of an order.
43. Supplementary provisions.

PART V - ORDERS FOR THE DISCLOSURE OF INFORMATION

44. Interpretation of terms.
45. Order for disclosure.
46. Conditions for the making of an order for disclosure.
47. Information contained in a computer.
48. Offences.

PART VI - SUMMARY INQUIRY

49. Conduct of summary inquiry.
50. Procedure to be followed.

51. False statements.
52. Enforcing a pecuniary penalty.

PART VII

UNIT FOR COMBATING MONEY LAUNDERING, ADVISORY AUTHORITY FOR COMBATING MONEY LAUNDERING

53. Composition of the Unit for combating Money Laundering.
54. Functions of the Unit.
55. Advisory Authority for combating Money Laundering.
56. Functions of the Advisory Authority.

PART VIII

SPECIAL PROVISIONS IN RESPECT OF RELEVANT FINANCIAL BUSINESS

57. Interpretation of principal terms.
58. Procedures to prevent money laundering.
59. Offences by bodies corporate, partnerships and unincorporated associations.
60. Supervisory Authorities.
61. Relevant financial business.
62. Identification procedures.
63. Transactions on behalf of another person.
64. Exemptions.
65. Supplementary provisions.
66. Record keeping procedures.
67. Internal reporting procedures.

PART IX - MISCELLANEOUS PROVISIONS

68. Application of civil proceedings.

69. Setting aside of gifts.

70. Extradition of a person who has committed a prescribed offence.

71. Service of orders.

72. Rules of Court.

73. Repeal. Reservation.

A LAW TO PROVIDE FOR THE PREVENTION AND SUPPRESSION OF MONEY LAUNDERING ACTIVITIES

PART I - INTRODUCTORY PROVISIONS

Short title.
61(I) of 1996
25(I) of 1997
41(I) of 1998.

1. This Law may be cited as the Prevention and Suppression of Money Laundering Activities Law of 1996.

Interpretation.

2.-(1) For the purposes of this Law, unless the context otherwise requires-

"Advisory Authority" means the Advisory Authority for Combating Money Laundering which is established under section 55;

"Attorney-General" means the Attorney-General of the Republic;

"bonds" includes shares, debentures and other securities issued by a legal person irrespective of whether they constitute a charge on the property of the said legal person;

"civil proceedings" means any proceedings of a civil nature which are not of a criminal nature;

"conclusion of criminal proceedings" with its cognate expressions means-

(a) the withdrawal of a charge under section 91 of the Criminal Procedure Law; Cap. 155. 93 of 1972 2 of 1975 12 of 1975 41 of 1978 162 of 1989 142 of 1991 9(I) of 1992 10(I) of 1996 89(I) of 1997 54(I) of 1998.

(b) the entering of nolle prosequi under section 154 of the Criminal Procedure Law;

(c) the acquittal of the accused by the court of first instance or on appeal by the Supreme Court;

(d) pardon by the President of the Republic;

(e) sentencing for a prescribed offence without the issue of a confiscation order;

(f) the full compliance with a confiscation order either by paying the amount due or by serving the term of imprisonment in lieu of payment of the amount due;

"court" means an assize court or a district court in the exercise of its criminal jurisdiction and for the purposes of section 38 (Procedure for the enforcement of foreign orders) has the meaning

ascribed to it in Part IV of this Law;

"criminal proceedings" means any criminal proceedings within the meaning ascribed thereto in the Courts of Justice Law; 14 of 1960 50 of 1962 11 of 1963 8 of 1969 40 of 1970 58 of 1972 1 of 1980 35 of 1982 29 of 1983 91 of 1983 16 of 1984 51 of 1984 83 of 1984 93 of 1984 18 of 1985 71 of 1985 89 of 1985 98 of 1986 317 of 1987 49 of 1988 64 of 1990 136 of 1991 149 of 1991 237 of 1991 42(I) of 1992 43(I) of 1992 102(I) of 1992 26(I) of 1993 82(I) of 1995 102(I) of 1996 4(I) of 1997 53(I) of 1997 90(I) of 1997 27(I) of 1998 53(I) of 1998.

"dividend" includes interest, any kind of income derived from securities and any income derived from the distribution of profits of a unit trust;

"drug trafficking" means doing or being concerned in doing any of the following acts in or out of the Republic;

(a) Producing or supplying a controlled drug, where the production or supply is prohibited by the Narcotic Drugs and Psychotropic Substances Law or any other corresponding law; 29 of 1977.

(b) transporting or storing a controlled drug where possession of the drug contravenes the Narcotic Drugs and Psychotropic Substances Law or any other corresponding law; 29 of 1977.

(c) importing or exporting a controlled drug, where the importation or exportation is prohibited by the Narcotic Drugs and Psychotropic Substances Law or the Customs and Excise Law or any other related law; 29 of 1977.

(d) entering into an agreement or arrangement for the purpose of-

(i) assisting or facilitating a person to retain the proceeds from drug trafficking or to retain control on such proceeds;

(ii) securing or disposing funds derived from drug trafficking so as to enable the person involved in drug trafficking to acquire property by way of investment;

"drug trafficking offence" means an offence committed in contravention-

(a) of sections 4, 5, 5A, 6, 7, 9, 12, 20, 21, 22, 25 and 26 of the Narcotic Drugs and Psychotropic Substances Law; 29 of 1977 67 of 1983 20(I) of 1992. 2(a) of 41(I) of 1998.

(b) of sections 39, 40, 48, 49, 55, 191 and 193 of the Customs and Excise Law; 82 of 1967 57 of 1969 4 of 1971 45 of 1973 12 of 1977 104 of 1987 98 of 1989 5 of 1991. 2(a) of 41(I) of 1998.

(c) of sections 20 (c) and 20(d) of the Criminal Code in connection with the commission of any of the offences referred to in paragraphs (a) and (b) above; Cap. 154. 3 of 1962 43 of 1963 41 of 1964 69 of 1964 70 of 1965 5 of 1967 58 of 1967 44 of 1972 92 of 1972

29 of 1973
59 of 1974
3 of 1975
13 of 1979
10 of 1981
46 of 1982
86 of 1983
186 of 1986
111 of 1989
236 of 1991
6(I) of 1994
3(I) of 1996
99(I) of 1996
36(I) of 1997
40(I) of 1998
45(I) of 1998.

(d) of section 370 of the Criminal Code in connection with the commission of any of the offences referred to in paragraph (a) and (b) above;

(e) of section 371 of the Criminal Code in connection with the commission of any of the offences referred to in paragraph (a) above;

"government stocks" includes development bonds, short term government bonds without interest, saving bonds and any other security issued in the name of a specific person but does not include a saving bond or any other security which is not issued to the bearer;

"immovable ownership or property" has the same meaning as in the Immovable Property (Tenure, Registration and Valuation) Law; Cap. 224. A3 of 1960

78 of 1965
10 of 1966
75 of 1968
51 of 1971
2 of 1978
16 of 1980
23 of 1982
68 of 1984
82 of 1984
86 of 1985
189 of 1986
12 of 1987
74 of 1988
117 of 1988
43 of 1990
65 of 1990
30(I) of 1992
90(I) of 1992
6(I) of 1993
58(I) of 1994
40(I) of 1996
31(I) of 1998.

"instrumentalities" means any property used or intended to be used, in any manner, wholly or in part, to commit a predicate offence;

"laundering offences" (or money laundering offences as known internationally) means the offences referred to in section 4;

"movable property or movables" means any property which is not immovable;

"predicate offence" means the offences referred to in section 5;

"prescribed offences" means the offences referred to in section 3;

"property" means movable and immovable property wherever located;

"Republic" means the Republic of Cyprus;

"Supervisory Authorities" means the authorities established under section 60;

"Unit" means the Unit for Combating Money Laundering established under section 53;

"unit trusts" means any trust established for the purpose or having the effect of providing for persons having funds available for investment facilities the right of participation as beneficiaries under the trust in any profits or income arising from the acquisition, management or disposal of any property whatsoever;

(2) The words and phrases set out in the first column are interpreted in the sections of this Law set out in the second column:

Appeal	37
Charging order	15
Company	21
Confiscation order	8
External order	37

(a) laundering offences;

(b) predicate offences.

Family of the accused	49
Financial position of the accused	49
Freezing order	32
Information	44
Interference with property	14
Making a gift	13
Order for sale of bonds	18
Order for the disclosure of information	45
Pecuniary penalty	8(2)
Preferential debts	13
Privileged information	44
Proceeds of prescribed offence	7
Prohibited gift	13
Realizable property	13
Restraint order	14
Value of gift	13
Value of property	13

(3) References in this Law to offences include offences committed before the commencement of this Law, but the courts have no obligation to exercise any of the powers conferred on them by this Law in connection with a criminal case for the commission of a prescribed offence instituted before the commencement of this Law. 2(b) of 41(I) of 1998.

3. This Law shall have effect in relation to the offences referred to below and which for the purposes of this Law shall be referred to as prescribed offences. Prescribed offences.

(a) laundering offences;

(b) predicate offences.

4.-(1) Every person who- Laundering offences.

(a) knows; or

(b) at the material time ought to have known that any kind of property constitutes proceeds-

(i) and converts or transfers or removes such property, for the purpose of concealing or disguising its illicit origin or of assisting in any way any person who is involved in the commission of the predicate offence to carry out any of the above actions or acts in any other way in order to evade the legal consequences of his actions;

(ii) conceals or disguises the true nature, the source,location, disposition, movement of and rights in relation to, property or ownership of this property;

(iii) acquires, possesses or uses such property;

(iv) participates in, associates, co-operates, conspires to commit, or attempts to commit and aids and abets and provides counselling or advice for the commission of any of the offences referred to above;

(v) provides information in relation to investigations

that are carried out for laundering offences for the purpose of enabling the person who acquired a benefit from the commission of a predicate offence to retain the proceeds or the control of the proceeds from the commission of the said offence,

commits an offence punishable by fourteen years' imprisonment or by a pecuniary penalty or by both of these penalties in the case of (a) above, or by five years' imprisonment or by a pecuniary penalty or by both in the case of (b) above.

(2) For the purposes of subsection (1)-

(a) it shall not matter whether the predicate offence is subject to the jurisdiction of the Cyprus Courts or not;

(b) a laundering offence may be committed by the offenders of a predicate offence as well;

(c) the knowledge, intention or purpose which are required as elements of the offences referred to in subsection (1) may be inferred from objective and factual circumstances.

Predicate offences.

5.-(1) Predicate offences are the criminal offences as a result of which proceeds were generated that may become the subject of a laundering offence as defined in section 4 and they are the following: -

(a) Premeditated murder;

(b) drug trafficking offence;

(c) offences in relation to illicit importation, exportation, trade, disposition, possession, transfer and trafficking of firearms and ammunitions;

(d) offences in relation to importation, exportation, purchasing, selling, disposition, possession, transfer of stolen objects, works of art, antiquities and tokens of cultural heritage;

(e) abduction of a minor or of a mentally retarded person or of any other person against his will for any unlawful purpose;

(f) extortion of money or of property of any kind by the use or threat of use of force or by any other illicit act;

(g) offences in contravention of the provisions of the Convention on the Physical Protection of Nuclear Material (Ratification and Other Provisions) Law of 1998; 3(III) of 1998. 3 of 41(I) of 1998.

(h) offences in contravention of the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Ratification) Law of 1998; 8(III) of 1998. 3 of 41(I) of 1998.

(i) attempt of murder; 3 of 41(I) of 1998.

(j) living from the earnings of prostitution and offences in relation to the procuration and defilement of women and 3 of 41(I) of 1998.

minors;

(k) offences in relation to the corruption of public or private officers; 3 of 41(I) of 1998.

(l) any other offence or category of offences punishable by imprisonment for a period exceeding twenty-four months and which the Council of Ministers may prescribe by an order published in the Official Gazette of the Republic as a predicate offence. 3 of 41(I) of 1998.

PART II - CONFISCATION ORDERS, TEMPORARY ORDERS AND OTHER MEASURES

A. Confiscation Orders

Inquiry in order to determine whether the accused acquired proceeds.

6.-(1) A Court which has convicted a person for a predicate offence shall, before sentencing, proceed with an inquiry in order to determine whether the accused acquired any proceeds from the commission of a predicate offence, by applying the procedure set out in this Part of the Law or the procedure referred to in Part VI.

(2) For the procedure set out in this Part to be applied, the Attorney General shall so decide by submitting a relevant application to the Court. The Court may make a confiscation order if the procedure under this Part is applied or impose a corresponding pecuniary penalty if the procedure under Part VI is applied.

Assessing the proceeds

7.-(1) For the purposes of this Law-

from the commission of a predicate offence.

(a) all payments which have been made to the accused or to any other person at any time before or after the commencement of this Law in connection with the Commission of a predicate offence are deemed to be proceeds of the accused from the commission of a predicate offence irrespective of whether this has been committed by the accused himself or another person.

(b) the value of the proceeds acquired by the accused from the commission of a predicate offence is the aggregate value of payments or other rewards made to him or the product of a predicate offence.

4 of 41(I) of 1998.

(2) The Court may, for the purpose of determining whether the accused has acquired proceeds from the commission of a predicate offence and of assessing the value of these proceeds, assume, unless the contrary is proved under the circumstances of a case, that-

(a) any property acquired by the accused after committing the said offence or transferred into his name at any time during the last six years prior to the commencement of criminal proceedings against him, was acquired by him as early as the court considers that it has been so acquired in the form of payment or reward connected with the commission of a predicate offence;

(b) any expenditure incurred by the accused during the above period was met out of payments or rewards made to him in connection with a predicate offence committed by him;

(c) for the purpose of valuing such property, he received the property free of any charge or any interest of any other persons in it.

(3) The provisions of subsection (2) shall not apply if-

(a) it is proved that they do not apply to the accused; or

(b) the court considers that there would be a serious risk of injustice against the accused, if they were to apply.

(4) Where the court decides not to apply the provisions of subsection (2), it shall set out the reasons for taking such a decision.

(5) For the purposes of assessing the value of the proceeds acquired by the accused from the commission of a predicate offence, if a confiscation order had previously been made against him, the court shall not take into account any of his proceeds from the commission of a predicate offence that are shown to the court to have been taken into account in determining the amount referred to in the said order.

Confiscation order.

8.-(1) Where the court, after the conduct of an inquiry under this Part, determines that the accused has acquired proceeds, it shall, before sentencing him for the offence for which he has been convicted or for offences which the court can take into

consideration in sentencing-

(a) make a confiscation order for the recovery of the amount of proceeds in accordance with section 9 as assessed and determined under section 7;

(b) make an order for the confiscation of instrumentalities;

and shall, thereafter, impose any of the penalties which it has the competence to impose.

(2) The making of a confiscation order is not affected by any provision in any other law limiting the power of the court in the imposition of pecuniary penalties.

Procedure for enforcing a confiscation order. Table. Cap.155.

9.-(1) Without prejudice to the power of the court mentioned in sections 17 to 19, the effect of a confiscation order shall be the same as the effect of imposing a pecuniary penalty and the Table in section 128 of the Criminal Procedure Law shall be replaced for the purposes of this Law by the following:

TABLE

First column	Second column
An amount not exceeding £50	7 days
An amount exceeding £50 but not exceeding £100	14 days
An amount exceeding £100 but not exceeding £500	30 days
An amount exceeding £500 but not exceeding £1.000	60 days

An amount exceeding £1.000 but not exceeding £2.000	90 days
An amount exceeding £2.000 but not exceeding £5.000	6 months
An amount exceeding £5.000 but not exceeding £10.000	9 months
An amount exceeding £10.000 but not exceeding £20.000	12 months
An amount exceeding £20.000 but not exceeding £50.000	18 months
An amount exceeding £50.000 but not exceeding £100.000	2 years
An amount exceeding £100.000 but not exceeding £250.000	3 years
An amount exceeding £250.000 but not exceeding one million pounds	5 years
An amount exceeding one million pounds	10 years

(2) The provisions of subsection (1) of this section shall also apply where a confiscation order is made under section 28 (Confiscation order where the accused has died or absconded) and the defendant had absconded and subsequently appeared.

10. The enforcement of an order for the confiscation of Procedure for enforcing an

means shall be effected by forfeiture by following instructions that may be given by the court according to the kind of instrumentality.

order for the confiscation of instrumentalities.

11.-(1) The prosecution, together with the application of the Attorney General for an inquiry under section 6 (Inquiry in order to determine whether the accused acquired proceeds) or under sections 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) or within such a time limit as the court may direct, submits a statement of allegations in which facts and particulars are set out in relation to the inquiry for the determination of whether the accused has acquired proceeds from the commission of a predicate offence or to an assessment of the value of the proceeds and, if the accused, in accordance with the procedure prescribed in this section, admits the correctness of the content of the said statement or of a part thereof, the court for the purposes of such inquiry and assessment may treat such an admission as conclusive proof of the facts and particulars to which it relates.

Statement of facts and particulars.

(2) Following the submission by the prosecution of the statement of facts and particulars under subsection (1), the court, if satisfied that a copy of it has been served on the accused, calls upon him to declare whether he admits any of the allegations contained in the statement and to submit a statement in relation to those of the allegations he does not admit (hereinafter to be referred as a "statement in rebuttal") in which he shall indicate the particulars and the reasons on which he intends to rely both in rebutting the allegation of the prosecution and in determining the amount that may be received from his realizable property. The statement in rebuttal is

submitted within such a period of time as the court may direct or within three days from the service of the statement of facts and particulars on the accused by the prosecution.

(3) Failure of the accused to comply with any of the directions of the court shall be treated for the purposes of this section as an admission of all the facts and particulars contained in the statement of facts and particulars.

(4) Where in the statement of rebuttal allegations are included which are relevant to determining the amount that may be realized at the time the confiscation order is made and the prosecution accepts all or some of these allegations or a part thereof, the court may treat such acceptance on the part of the prosecution, for the purposes of such determination, as conclusive proof of the allegations to which it relates.

(5) The acceptance of allegations either by the prosecution or by the accused is made orally before the court unless the court otherwise directs.

(6) The admission made by the accused for the purposes of this section shall not be admissible as evidence in any other criminal proceedings.

(7) The court may set a date for the conduct of the inquiry and adjourn it whenever it appears to the court necessary to do so.

(8) The court delivers a reasoned decision on all matters of the inquiry.

Amount to be recovered under a confiscation order.

12.-(1) Subject to the provisions of subsection (2), the amount to be recovered under a confiscation order shall be the amount which the court assesses to be representative of the value of the proceeds of the accused from the commission of a predicate offence.

(2) If the court is satisfied that the amount that may be realised at the time the confiscation order is made is less than the amount the court has assessed to be representative of the value of the proceeds of the accused from the commission of a predicate offence, the amount to be recovered under the confiscation order shall be the amount which, in the opinion of the court, might in fact be so secured from the realizable property. In such a case, the order also mentions the amount which ought to have been recovered as the amount representing the proceeds of the accused from the commission of a predicate offence.

(3) Where the court comes to the conclusion that the amount which may be recovered from the realizable property of the accused is less than the amount which ought to have been recovered, it may make an order for the cancellation of this difference or for postponement of its recovery if such an order is, in the opinion of the court, just and expedient having regard to the reasons giving rise to this difference.

Realizable property and other principal terms.

13.-(1) In this Law, subject to the provisions of subsection (2), "realizable property" means-

(a) any property held by the accused; and

(b) any property held by another person to whom the accused has directly or indirectly made a gift prohibited by this Law.

(2) Property is not realizable if such property is subject to forfeiture by virtue of an order of the court made in criminal proceedings.

(3) For the purposes of sections 11 (Statement of facts and particulars) and 12 (Amount to be recovered under a confiscation order), the amount that may be realized, at the time a confiscation order is made, is made up of-

(a) the total value of all realizable property held by the accused at the time the order is made;

(b) plus the total value, at the time the order is made, of all gifts prohibited by this Law;

(c) less, the total of obligations which in accordance with subsection (6) below have priority at the time the order is made.

(4) Subject to the following provisions of this section, the value of property, other than cash, is-

(a) the market value of the property, when such property belongs absolutely to one person;

(b) when another person has an interest in such property, the market value of the property less the amount

required to pay off the interest of the other person and to discharge any encumbrance, other than an encumbrance based on a charging order.

(5) Subject to the provisions of this section, reference in this Law to the value of a gift means the value of the property in the open market at the time the confiscation order is made or at the time the gift is made, if at that time the value of this property was higher than its value at the time the order was made.

(6) For the purposes of subsection (3) above the obligations of the accused that have priority over other obligations, are:

(a) the obligations for the payment of pecuniary penalties imposed before the confiscation order was made or for other amounts due by virtue of order of the court made before the confiscation order was made;

(b) his obligation for the payment of amounts which would have been included among the preferential debts of the accused, if at the time the confiscation order was made he was declared bankrupt or, in the case of a company, a winding up order was made;

(c) any other bona fide claim against the accused to which the court considers appropriate to grant priority on such terms as the court under the circumstances of the case deems just;

and "Preferential debts" in this subsection means:

(i) in relation to bankruptcy, the debts to be paid in priority

under section 38 of the Bankruptcy Law or any other law, as if the date on which the confiscation order was made was the date on which the receiving order of the company was made; Cap. 5. 49 of 1985 197 of 1986.

(ii) in relation to the winding up of a company, the debts to be paid in priority, under section 300 of the Companies Law or any other law, as if the date the confiscation order was made was the date the winding up order was made; Cap. 113. 9 of 1968 76 of 1977 17 of 1979 105 of 1985 198 of 1986 19 of 1990 46(I) of 1992 41(I) of 1994 15(I) of 1995 21(I) of 1997.

(iii) in relation both to the bankruptcy of a natural person and the winding up of a company, the claims mentioned in paragraph (c) of subsection (6) above.

(7) Gifts, including gifts made before the commencement of this Law, which are prohibited gifts under this Law are-

(a) those made by the accused at any time during the last six years prior to the institution of criminal proceedings against him; and

(b) those made by the accused at any time and relate to property-

(i) received by the accused in connection with a predicate offence committed by him or any other

person; or

(ii) which in whole or in part, directly or indirectly, represent property received by the accused in connection with a predicate offence committed by him or by another person.

(8) For the purposes of this Law the accused is to be treated as making a gift where he transfers property to another directly or indirectly for a consideration the value of which is significantly less than the actual value of the property at the time of transfer. In such a case, the preceding provisions of this section shall apply as if the accused has made a gift of that part of the property which by comparison to the total value of the property represents the proportion of the difference between the value of the consideration he accepted for the transfer of the property and the actual value of the property at the time of transfer.

B. Interim Orders

14.-(1) The court may make a restraint order where- Restraint order.

(a) criminal proceedings have been instituted and have not been concluded or are about to be instituted in the Republic against a person for the commission of a predicate offence, or an application by the Attorney General has been made under sections 28 (Confiscation order where accused has died or absconded), 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) of this Law; or

(b) the Unit possesses information which creates a reasonable suspicion that a person may be charged with the commission of a laundering offence; and

(c) the court is satisfied that there is a reasonable ground to believe that-

(i) where an application under section 36 is submitted, the provisions of subsection (3) of the same section are fulfilled; and

(ii) the person mentioned in paragraphs (a) and (b) above has benefited from the commission of a predicate offence.

(2) A restraint order made under subsection (1) prohibits transactions in any way in realizable property. The prohibition shall be subject to such conditions and exceptions as may be specified in the order.

(3) A restraint order may apply-

(a) to all realizable property held by a specific person whether the property is described in the order or not; and

(b) to realizable property held by a specific person which was transferred to him after the order was made.

(4) This section shall not apply in relation to any property which is subject to a charging order made under section 15 (Charging order).

(5) A restraint order-

(a) may be made following an ex parte application by the Attorney-General; and

(b) shall provide for service of notice to all persons affected by the order.

(6) A restraint order-

(a) may be discharged or varied in relation to the property concerned;

(b) shall be discharged when the criminal proceedings against the accused for the offences with which he is charged are concluded;

(c) shall be discharged if an application under section 35 (Reconsideration of a case) or section 36 (Re-assessment of proceeds) is not submitted within a reasonable, in the opinion of the court, period of time.

(7) The court may at any time after the making of a restraint order, appoint a receiver-

(a) to take possession of any realizable property and place it under his custody; and

(b) to manage or otherwise deal with the said property, in accordance with the directions of the court.

(8) The court may, on appointing a receiver, impose such conditions as it considers necessary and may direct any person in possession of the property in respect of which the receiver was appointed to give possession of it to the receiver.

(9) For the purposes of this section the expression "dealing with property", without prejudice to its generality, includes-

(a) making a payment towards a debt with a view to reducing the same; and

(b) removing or transporting the property out of the Republic.

(10) Where the court has made a restraint order the realizable property may be seized for the purpose of preventing its transportation or removal out of the Republic.

(11) Property seized under subsection (10) above shall be subject to the instructions of the court.

(12) The court shall not exercise the powers conferred on it under this section-

(a) if it is satisfied that the promotion of a procedure or application is delayed without any reasonable ground, or

(b) if the Attorney-General declares that he does not intend to promote the said procedure or application.

Charging order.

15.-(1) The court has the power to make a charging order before or after a confiscation order is made but a charging order shall only be made before a confiscation order is made where-

(a) criminal proceedings have been instituted and have not been completed or are about to be instituted in the Republic against a person for the commission of a predicate offence, or an application by the Attorney-General has been made under sections 28 (Confiscation order where accused has died or absconded), 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) of this Law; or

(b) the Unit possesses information which creates a reasonable suspicion that a person may be accused of the commission of a laundering offence; and

(c) the court is satisfied that there is a reasonable ground to believe that-

(i) where an application under section 36 is submitted (Re-assessment of proceeds), the provisions of subsection (3) of the same section are satisfied; and

(ii) the person mentioned in paragraphs (a) and (b) above has benefited from the commission of a predicate offence.

(2) An order made under subsection (1) shall be called a charging order and, notwithstanding the provisions of other laws, it shall create a charge on the realizable property specified in the order, with the purpose of securing payment to the Republic-

(a) of an *amount equal to the value* of the property charged, where a confiscation order has not been made; and

(b) in any other case, of an amount not exceeding the amount payable under the confiscation order.

(3) A charging order is made following an ex parte application by the Attorney General.

(4) Subject to subsection (6) below, a charge may be imposed by a charging order only on-

(a) any interest the accused has in realizable property either of the kind mentioned in subsection (5) or under a trust;

(b) any interest in realizable property held by any other person either of the kind mentioned in subsection (5) or under a trust and to whom the accused has made a gift prohibited under this Law.

(5) Subject to the provisions of subsection (12), the kinds of assets referred to in subsection (4) above are:

(a) immovable property;

(b) the following bonds:

(i) government stocks,

(ii) bonds of any legal body incorporated in the Republic;

(iii) bonds of any legal body incorporated outside the Republic being stocks registered in a register kept at any place within the Republic;

(c) units of any unit trust in respect of which a register of the unit holders is kept at any place within the Republic;

(d) funds in court.

(6) Where a court makes a charging order on any interest in any asset of the kind mentioned in paragraphs (b) and (c) of subsection (5) above, it may order that the charge be extended so as to cover any interest on dividend or on interest payable in respect of the asset.

(7) The court may make an order discharging or varying the charging order and in any case shall make an order discharging the charging order if the proceedings for the offence have been concluded or the amount of the payment which is secured by the charge is paid into court or if the applications under sections 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds) are not submitted within a reasonable, in the opinion of the court, period of time.

(8) A charging order may be made either without conditions or subject to conditions as to the service of a notification to any person holding an interest in the property to which the order relates or as to the time when the charge is to become enforceable or as to other matters.

(9) The making of a charging order, in respect of the assets in paragraphs (b), (c), and (d) of subsection (5) above, has all or

some of the following effects which the court may specify, subject to such conditions and directions as it may consider necessary or supplementary to the effect or effects so specified:

(a) the creation of a charge in favour of the Republic in the property for which the order is made by the payment of the amount mentioned in subsection (1) with priority of the interest of the Republic as against any other debt or obligation of the accused which has not previously been the subject of a charging order made in respect of the same assets, or as against any other charges not created prior to the making of the order in any legal way;

(b) the prohibition of transfers, sales, payments or other dealings in respect of the subject matter of the order, without prejudice to the enforcement of court decisions or orders made before the making of the order;

(c) the prohibition of payment of dividends to the debtor in respect of the subject matter of the order;

(d) in the case of a unit trust, the prohibition of any acquisition of the units or any dealing in connection with the units by any natural or legal person which performs functions under the trust.

After the service of the order to any person under this subsection, a duty is created for such person to comply with the order and further, if such person keeps any record in respect of the registration of a transfer or any other dealings in relation to the subject matter of the order, to enter into such record all the registrations or amendments which are consequential to the

making of the order.

(10) A charging order made in respect of immovable property is deposited with the District Lands Office of the district where the property affected is situated and thereafter the provisions of sections 57, 60 and 61 of the Civil Procedure Law are applied with the necessary adjustments as if- Cap. 6. 11 of 1965 161 of 1989 228 of 1989.

(a) the charging order was a judgment of the Court for debt; and

(b) the depositing of the order constituted registration of a judgment of the court for debt.

(11) Every order of the court varying or discharging a charging order on immovable property is deposited with the District Lands Office of the district where the property affected is situated and the District Lands Officer amends or deletes accordingly the relevant entry in the register kept under section 60 of the Civil Procedure Law.

(12) (a) The Council of Ministers may by Regulations amend subsection (5) by adding or removing assets which, in its opinion, ought to have been added or deleted, provided that in the case of addition of new assets such addition does not entail any other amendments of the Law.

(b) Regulations made under this subsection are laid before the House of Representatives for approval and following that the provisions of subsection (2) of section 3 of the Laying before the 99 of 1989 227 of 1990

House of Representatives Regulations issued under the authority of a Law, Law of 1989 apply. 27(I) of 1992.

(13) The court shall not exercise the powers conferred on it under this section-

(a) if it is satisfied that the promotion of a procedure or application is delayed without any reasonable ground; or

(b) if the Attorney-General declares that he does not intend to promote the said procedure or application.

16.-(1) The court may make an order discharging orders made under sections 14 (Restraint order) and 15 (Charging order) before the making of a confiscation order, if the contemplated criminal proceedings have not commenced within a reasonable period of time or within the period of time specified by the court in making the order. Supplementary provisions.

(2) When the powers under section 14 and 15 are exercised before the commencement of the criminal proceedings, then-

(a) the reference to the accused made in this Law shall be interpreted as a reference to the person mentioned in section 14(1)(a) and section 15(1)(a);

(b) the reference to realizable property made in this Law shall be interpreted as if criminal proceedings against the person mentioned in section 14(1)(a) or in section 15(1)(a) for the commission of a predicate offence were commenced immediately before the making of an order under sections 14 (Restraint order) and 15 (Charging

order).

C. Other measures

17.-(1) After a confiscation order is made for which there was no appeal and which remains unenforced, the court may on application by the prosecution exercise the following powers: Appointment of a receiver.

(a) appoint a receiver for the realization of the property;

(b) empower the receiver so appointed or a receiver appointed under subsection (7) of section 14 or under other provisions which relate to the making of charging orders-

(i) to enforce any charge imposed under section 15 on realizable property or on interest or dividend payable in respect of such property; and

(ii) subject to such conditions or exceptions as the court thinks appropriate to take possession of any other realizable property not affected by a charge;

(c) to order any person having possession of realizable property to give possession of it to any such receiver;

(d) to empower any such receiver to realize realizable property in such manner as the court may direct;

(e) to order any person holding an interest in realizable property to make such payment to the receiver in respect of any interest held by the accused, or, as the

case may be, the recipient of a prohibited gift, and then the court may, after the payment is made, order the transfer, grant or extinction of any interest in the property.

(2) Paragraphs (c), (d) and (e) of subsection (1) above do not apply to property affected by a charge created under section 15 (Charging order).

(3) The court shall not exercise the powers conferred upon it by paragraphs (b) (I), (d) and (e) of subsection (1), unless satisfied that a reasonable opportunity has been given to the persons holding an interest in the property to make representations to the court.

(4) A receiver appointed under this section has the same powers, to the extent to which they do not contradict the provisions of this Law, as if he were appointed for the purposes of sale, disposition or realization of assets charged with a charging order for the satisfaction of a civil debt under the Charging Orders Law. 31(I) of 1992.

Order for sale of bonds.

18.-(1) Subject to the provisions of subsection (4), where the subject matter of a charging order is the property mentioned in paragraphs (b) and (c) of subsection (5) of section 15 (Charging order), the disposal, sale or realization of such property can only be effected by an order of the court made on the application of the prosecution or of a receiver appointed under section 17 (Appointment of receiver) and which is called an order for sale of bonds.

(2) The court, when making an order for sale of bonds, may

impose such conditions as it may consider necessary for safeguarding the interests of any person having an interest in the sale of the said bonds.

(3) The court, before making an order for the sale of bonds, secures the views of all interested persons including the views of the Registrar of Companies and Official Receiver, as well as the views of the directors of companies or other legal persons, with a view to ascertaining the interests in the property under a charge which might be affected by its sale, realization or disposition. For this purpose, the court may give such directions as it considers in the circumstances proper and necessary.

(4) An order for the sale of bonds can only be made after the making of a confiscation order.

(5) Where the subject-matter of a charging order is shares in a company, their sale is only effected by public auction, unless the court otherwise directs and, subsequently, the provisions of the Charging Orders Law shall apply as if the charging order were made for a civil debt under that Law. 31(I) of 1992.

Application of proceeds from the realization of property.

19.-(1) The sums specified in subsection (2) which are in the hands of a receiver, whether appointed under section 14 (Restraint order) or 17 (Appointment of a receiver) or with a view to enforcing a charging order, shall be applied on behalf of the accused in accordance with the provisions of subsection (4), towards the satisfaction of the amount due under the confiscation order and such amount is reduced accordingly after the deductions of the sums specified in subsection (3).

(2) The sums applied under subsection (1) are:

(a) the proceeds of the enforcement of any charge imposed under section 15 (Charging order);

(b) the proceeds of the realization of property under section 14 or 17 other than by enforcement of a charge;

(c) any other sums belonging to the accused.

(3) Irrespective of the provisions of section 126 of the Criminal Procedure Law, the sums which are deducted from the sums specified in subsection (2), before the reduction of the amount due under a confiscation order, are: Cap. 155.

(a) the remuneration and expenses of the receiver;

(b) any sum paid by the prosecution under section 24(2) (Receiver. Supplementary provisions);

(c) payments effected by order of the court.

(4) The sums specified in subsection (2) are applied as follows:

(a) the sums specified in subsection (3) are paid in the order in which they are enumerated in the said subsection, unless the court otherwise directs;

(b) any balance shall be treated as if it were a fine and is applied for the satisfaction of the amount payable under the confiscation order;

(c) if after the amount payable under the confiscation order has been fully paid there is any balance, it is distributed among the persons who had a right over the property which has been realized in such proportions as the court may direct, after giving a reasonable opportunity to such persons to make representations to the court.

General principles in exercising certain powers.

20. The following basic principles apply to the powers conferred on the court under sections 15 (Charging order) and 19 (Application of proceeds from the realization of property) or on a receiver appointed under sections 14 (Restraint order) and 17 (Appointment of a receiver) or in pursuance of a charging order:

(a) in the case of realizable property held by a person to whom the accused has directly or indirectly made a prohibited gift, the power is exercised with a view to realizing no more than the value of the gift;

(b) the powers shall be exercised with a view to allowing any person other than the accused or the recipient of any prohibited gift, to retain or recover the value of any property belonging to him;

(c) in exercising those powers, no account shall be taken of any obligations of the accused or of the recipient of any prohibited gift which conflict with the obligation to satisfy the confiscation order;

(d) subject to the above principles, the power shall be exercised with a view to satisfying the amount due under a confiscation order by recovering the current

value of the realizable property.

Variation of a confiscation order.

21.-(1) If on any application by the accused in respect of a confiscation order or of the receiver appointed under section 17 (Appointment of a receiver), or on the application for the making of a charging order, the court is satisfied that the realizable property is inadequate for the payment of any amount remaining to be recovered under the confiscation order, it may, subject to subsection (2), vary the confiscation order:

(a) by substituting for the amount to be recovered under the confiscation order such lesser amount as the court considers just; and

(b) by substituting for the terms of imprisonment prescribed by section 126 of the Criminal Procedure Law and section 9 (Procedure for enforcing a confiscation order. Table) of this Law in respect of the amount to be recovered under the order, a shorter period corresponding, in accordance with the above provisions, to the lesser amount which will be recovered. Cap.155.

(2) For the purposes of subsection (1) above:

(a) in the case of realizable property held by a person who has been adjudged bankrupt, the amount of that property which could be distributed among the creditors of the bankrupt shall be treated as property which cannot be recovered, but:

(b) any inadequacy in the realizable property which appears to the court to be attributable wholly or partly to anything

done by the accused for the purpose of preserving from any risk of realization under this Law any property held by a person to whom the accused had directly or indirectly made a prohibited gift shall not be treated as property which cannot be recovered.

(3)The application for variation of the confiscation order is made in writing and is supported by a sworn statement in verification of the facts on which it is based and such application is served on the prosecution and on other affected persons as the court may direct.

(4) For the purposes of this section "court" means the court which made the confiscation order or any other court of similar jurisdiction.

Bankruptcy of the accused. Cap.5 49 of 1985 197 of 1986.

22.-(1) Where a person holding realizable property is adjudged bankrupt, for the purposes of the Bankruptcy Law the following are excluded from the bankrupt's estate-

(a) property which is the subject of a restraint order made before the order adjudging him bankrupt; and

(b) any proceeds of property realized by virtue of sections 14(6), 17(1)(d) and 17(1)(e) being in the hands of a receiver appointed under section 14 (Restraint order) or 17 (Appointment of a receiver).

(2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 14 to 18 or on a receiver appointed for the purposes of those sections shall not be

exercised in relation to any property of the bankrupt which, under section 41 of the Bankruptcy Law, is subject to distribution among his creditors. Cap. 5.

(3) Subsection (1) above does not affect the enforcement of a charging order made before the making of a bankruptcy order or made in respect of property which was subject to a restraint order when the order adjudging him bankrupt was made.

(4) Nothing in the Bankruptcy Law shall be taken as restricting in any way the exercise of the powers referred to in subsection (2).

(5) Where the Official Receiver acts as a provisional receiver under sections 9 and 10 of the Bankruptcy Law and the property of the debtor is subject to a restraint order, such property shall be administered according to the directions of the court without prejudice to a lien for any expenses, including the remuneration of the receiver, incurred in respect of such property. Cap. 5.

(6) Where a person is adjudged bankrupt and has directly or indirectly made a prohibited gift, the provisions of section 46 of the Bankruptcy Law- Cap. 5.

(a) shall not apply in respect of the making of the gift if-

(i) the gift was made at any time when criminal proceedings for the commission of a predicate offence had been instituted against him and not concluded;

(ii) the gift was made at the time when an application

against him, under sections 28 (Confiscation order where the accused has died or absconded) 35 (Reconsideration of a case) or 36 (Re-assessment of proceeds), was pending; or

(iii) the property of the person to whom the gift was made is subject to a restraint or charging order, but

(b) shall apply after the conclusion of the criminal proceedings for the commission of a predicate offence, provided account is taken of any realizations under this Law of property held by the person to whom the gift was made.

Winding up of a company holding realizable property.

23.-(1) Where realizable property is held by a company in respect of which an order for winding up was made or a resolution has been passed by the company for a voluntary winding up, the functions of the liquidator or provisional liquidator shall not be exercised in relation to-

(a) property subject to a restraint order made before the relevant date, as specified in subsection (4);

(b) any proceeds of property realized by virtue of sections 14(6), 17(1)(d) or 17(1)(e) which are in the hands of a receiver appointed under section 14 (Restraint order) or 17 (Appointment of a receiver):

Provided that out of such property any expenses, including the remuneration of the liquidator or provisional liquidator, properly incurred in the winding up in respect of the property,

shall be payable.

(2) In the case of a company for which a winding up order was made or a resolution has been passed by the company for its voluntary winding up, the powers conferred on the court under sections 14 to 18 or on a receiver appointed under the said sections shall not be exercised in relation to any realizable property held by the company in relation to which the liquidator could exercise his functions if by such exercise-

(a) he is prevented from exercising those functions for the purpose of distribution to the company's creditors of any property held by the company; or

(b) he is prevented from paying out any expenses, including the remuneration of the liquidator or any provisional liquidator, properly incurred in the winding up of the company in respect of the said property:

Provided that nothing in the Companies Law shall be taken as restricting in any way the exercise of these powers.

Cap. 113,
9 of 1968
76 of 1977
17 of 1979
105 of 1985
198 of 1986
19 of 1990
46(I) of 1992
41(I) of 1994
15(I) of 1995
21(I) of 1997.

(3) Subsection (2) above does not affect the enforcement of a charging order made before the relevant date or in relation to property which was the subject of a restraint order at the

relevant date, as such date is defined in subsection (4).

(4) For the purposes of this section:

"company" means a company which is wound up on the basis of the provisions of the Companies Law;

"relevant date" means-

(a) the date on which the resolution for the voluntary winding up of the company has been passed in the cases where-

(i) no winding up order has been made; or

(ii) a winding up order was made, but before the filing of the petition for the winding up of the company by the court, such resolution was passed by the company;

(b) in any other case where such an order has been made, the date of the making of the order.

Receiver. Supplementary provisions.

24.-(1) A receiver appointed under section 14 (Restraint order) or 17 (Appointment of a receiver) or in pursuance of a charging order shall not be liable to any person in respect of any loss or damage resulting from any action of his in relation to property of this person which was not realizable, provided that the said receiver-

(a) would have been entitled to take such action if such property was realizable;

(b) believed or had reasonable grounds for believing that he was entitled to take such action; and

(c) the loss or damage was not caused by his negligence.

(2) If any amounts due in respect of the remuneration or expenses of a receiver appointed for the purposes of this Law, remain unpaid by reason of the fact that there are no available amounts for the payment of such remuneration and expenses in accordance with section 19(3), then such unpaid amounts are paid by the Republic.

Compensation.

25.-(1) According to the provisions of this section, the court may order compensation to be paid to any person who had realizable property, in the case where the criminal proceedings which were instituted against him for the commission of a predicate offence-

(a) did not result in a conviction; or

(b) resulted in a conviction but such conviction was quashed on appeal and no conviction for any other predicate offence was substituted.

(2) The claim for compensation is made by action.

(3) The court orders compensation under section 25(1) above if it is satisfied that-

(a) there has been serious default on the part of a person participating in the investigation or prosecution of the

offence or offences concerned and that but for that default, the proceedings would not have been instituted or continued, and

(b) the plaintiff has suffered substantial loss in consequence of anything done in relation to his property by virtue of any order of the court under sections 14 to 18 both inclusive.

(4) The amount of compensation shall be such as the court considers just taking into account all the circumstances of the case.

(5) The provisions of this section shall not apply where the court makes a confiscation order under section 28 (Confiscation order where accused has died or absconded).

Special defences for persons assisting another for the commission of laundering offences.

26.-(1) In criminal proceedings against a person in relation to the provision of assistance to another in the commission of a laundering offence in contravention of the provisions of section 4 (Laundering offences), it shall constitute a defence for the accused if he proves that he intended to disclose to a police officer or to the Unit his suspicion or belief, or the facts on which he bases his suspicion or belief, in respect of the agreement or arrangement and that his failure to do so was based on reasonable grounds.

(2) Where a person discloses to a police officer or to the Unit his suspicion or belief that any funds or investments are derived from or used in connection with a predicate offence or any matter on which such a suspicion or belief is based-

(a) the disclosure shall not be treated as a breach of any restriction on the disclosure of information imposed by contract; and

(b) if he does any act in contravention of section 4 (Laundering offences) and the disclosure is related to the act concerned, this person shall not commit the offence of assisting another to commit a laundering offence under the said section, if the following conditions are satisfied:

(i) the said act was done with the consent of the police officer or Unit after the aforesaid disclosure; or

(ii) if the act was done before the disclosure, the disclosure was made on his initiative and without delay as soon as it was reasonable for him to make such disclosure.

(3) Where a person is, at the material time, an employee of another person whose activities are supervised by one of the authorities established under section 60 (Supervisory Authorities), subsections (1) and (2) above shall apply in respect of disclosures or intended disclosures to the competent person in accordance with the procedure the employer wishes to establish for the purposes of such disclosures, and these disclosures shall have the same effect as disclosures or intended disclosures to a police officer or Unit.

27.-(1) A person who- Other offences in

connection with laundering offences.

(a) knows or reasonably suspects that another person is engaged in laundering offences, and

(b) the information on which that knowledge or reasonable suspicion is based, comes to his attention in the course of his trade, profession, business or employment,

shall commit an offence if he does not disclose the said information to a police officer or to the Unit as soon as is reasonably practicable after it comes to his attention.

(2) It shall not constitute an offence for an advocate to fail to disclose any privileged information which has come to his attention.

(3) No criminal proceedings shall be brought against a person for the commission of the offences referred to in subsection (1), without the express approval of the Attorney General.

(4) An offence under this section shall be punishable by imprisonment not exceeding five years or by a pecuniary penalty not exceeding three thousand pounds or by both of these penalties.

28.-(1) Subject to the provisions of subsection (3) and upon the application of the Attorney-General, the court which has

Confiscation order where the accused

convicted a person for the commission of a predicate offence may make a confiscation order under section 8 (Confiscation order) against an accused who has died or absconded. has died or absconded.

(2) The Attorney-General, together with his application under subsection (1), or within such a time limit as the Court may direct, shall submit a statement of allegations which sets out facts and particulars relevant to the inquiry for the determination of whether the accused has acquired any proceeds from the commission of a predicate offence or to the assessment of the said proceeds.

(3) The court shall not make a confiscation order under subsection (1) unless-

(a) it is satisfied that the Attorney-General has taken reasonable steps to contact him; and

(b) any person who is likely to be affected by the making of a confiscation order by the court, has been given the opportunity to appear before the court and make representations.

(4) Where the court has made a confiscation order under this section and the accused subsequently appears before the court for the purpose of imposition of a penalty on him in relation to the same offence, subsection (1) of section 8 (Confiscation order) of this Law shall not apply so far as his appearance before the Court is in respect of the same offence.

29.-(1) This section shall apply where the court has made a confiscation order under section 28 (Confiscation order where Power to set aside a

the accused has died or absconded) in respect of an accused who had absconded and subsequently returned.

confiscation order where the accused who had absconded returns.

(2) The court, upon an application by the accused and after hearing the views of the Attorney-General, may set aside the confiscation order if it considers expedient and just to do so.

30.-(1) This section shall apply where the court has made a confiscation order under section 28 in respect of an accused who had absconded and subsequently returned.

Variation of a confiscation order made under section 28.

(2) Where the accused claims that-

(a) the value of the proceeds from the commission of a predicate offence in respect of the period for which the assessment had been made; or

(b) the amount which could have been realized at the time the confiscation order was made was smaller than the amount of the confiscation order,

he may submit an application to the court for the consideration of the above claims.

(3) Where the court in view of the evidence submitted before it, accepts the allegation of the accused-

(a) it shall make a new assessment under section 7

(Assessment of proceeds from the commission of a predicate offence); and

(b) may, if it considers just after taking into consideration all the circumstances of the case, vary the amount of the confiscation order. 5 of 41(I) of 1998.

Prohibition of publicizing information.

31.-(1) Where proceedings are being carried out before a Court for-

Cap. 155.

(a) the issue of a warrant of arrest, under the Criminal Procedure Law, against a person for whom there is evidence that he has committed a prescribed offence under section 3; or

(b) the making of interim orders under this Law against a person for whom there is evidence that he has committed a prescribed offence, provided that no criminal proceedings for the commission of such offence have been instituted in the Republic against this person,

the court may order that the proceedings be conducted in the absence of representatives of the Press and other mass media or other persons not directly interested in or affected by the proceedings and to prohibit the publication of any information in relation to the said proceeding.

(2) Any person who publishes information in contravention of the directions of the court under subsection (1), shall commit an offence punishable by one year's imprisonment or by a pecuniary penalty of one thousand pounds or by both of these

penalties.

(3) No criminal proceedings shall be instituted by virtue of this section without the express approval of the Attorney General.

D. Freezing and confiscation orders of property against an absent suspect

Freezing order of property against an absent suspect.

32.-(1) Subject to the provisions of subsection (2) and upon the application of the Attorney General, a Court may make an order for the freezing of property of a suspect who is outside the jurisdiction of the Republic or has died.

(2) The court shall make a freezing order under subsection (1), if satisfied by affidavit or other evidence that-

(a) there is prima facie evidence against the suspect for the commission of a prescribed offence; and

(b) the property of the suspect may be converted or transferred or removed outside the jurisdiction of the Republic for the purpose of concealing or disguising its illicit origin.

(3) The freezing order shall have effect for six months but the court may extend its validity for up to a period of one year if reasonable grounds concur.

Order of

33.-(1) Subject to the provisions of subsection (2) and upon

the application of the Attorney-General, a court may make an order for confiscation of property against a suspect who is outside the jurisdiction of the Republic or has died.

confiscation of property against an absent suspect.

(2) The court shall make the confiscation order under subsection (1) if the suspect does not appear before the court during the validity of the freezing order made under section 32 (Freezing order of property against an absent suspect) and if it is satisfied that;

(a) The prosecution has taken reasonable steps to contact him; and

(b) any person who is likely to be affected by the making of a confiscation order has been given the opportunity to make representations, if he so wishes, before the court in respect of the making of the order.

(3) Where the court has made a confiscation order under this section and the suspect is subsequently brought before the court in respect of a prescribed offence for which a confiscation order has been made, Part II of this Law shall not apply in respect of the said offence, but the provisions of Part III shall apply mutatis mutandis.

34.-(1) This section shall apply where-

Compensation paid to an absent suspect against whom an order for the freezing

or confiscation of his property was made.

(a) the court has made a freezing order under section 32 (Freezing order of property against an absent suspect) or a confiscation order under section 33 (Confiscation of property order against an absent suspect) against a suspect who was outside the jurisdiction of the Republic; and

(b) the suspect is subsequently put on trial for the same offence and acquitted.

(2) The court which acquits the defendant shall set aside the freezing or confiscation order.

(3) Upon an action made by the person who had property, the court may order compensation to be paid to this person if satisfied that the person concerned has suffered loss as a result of the making of the freezing or confiscation order under section 32 or 33, as the case may be.

(4) The amount of the compensation shall be such as the court considers just having taken into account all the circumstances of the case.

PART III - RECONSIDERATION AND REVISION OF CONFISCATION ORDERS

35.-(1) Where- Reconsidera-

tion of a case.

(a) Because of lack of evidence, the Court-

(i) did not make an inquiry under section 6 (Inquiry in order to determine whether the accused acquired proceeds); or

(ii) made an inquiry under section 6 but it was not ascertained whether the accused acquired proceeds from the commission of a predicate offence; and

(b) the Attorney General-

(I) has secured evidence which was not available on the date of conviction of the accused; and

(ii) believes that this evidence would have led the court to determine that the defendant had benefited from the commission of a predicate offence if an inquiry under section 6 was made on the date of conviction of the accused,

the Attorney General may ask the court to consider the evidence he has secured in accordance with subsection (b) of this section.

(2) The court shall make a confiscation order under section 8 (Confiscation order) if, having considered the evidence given under section 6 and bearing in mind all the circumstances of the case, it considers it expedient to do so.

6 of 41(I) of 1998.

(3) For the purposes of this section and where the court has

decided to proceed with an inquiry under this section, the provisions of this Law which would have applied if the inquiry were made on the date of conviction of the accused, shall apply mutatis mutandis.

(4) No application shall be considered by the court under this section if it is made after the end of the period of six years beginning with the date of conviction.

(5) This section shall not apply where the court has imposed a penalty under Part VI.

Re-assessment of proceeds.

36.-(1) Where the Attorney-General is of the opinion that the real value of the proceeds of the accused from the commission of a predicate offence was greater than their assessed value, the Attorney General may apply to the court for the consideration of the evidence on which he based his opinion.

(2) For the purposes of subsection (1)-

"assessed value" means the value of the proceeds of the accused from the commission of a predicate offence as assessed by the court under section 7 of this Law;

"real value" means the value of the proceeds of the accused from a predicate offence which was committed-

(a) in the period to which the assessment of section 7 refers; or

(b) in any earlier period.

(3) The court if-

(a) having considered the evidence given under subsection (1); and

(b) having been satisfied that the real value of the proceeds of the accused is greater than their assessed value, (because their real value was greater than the assessed amount or because their value increased subsequently),

it may make a fresh assessment of the amount which must be recovered from the accused under section 8 (Confiscation order).

(4) The court may take into account any payment or other reward received by the accused on or after the date of the assessment under section 7 (Assessing the proceeds from the commission of a predicate offence), if the Attorney-General shows that the said payment or reward was received by the accused in connection with the commission of a predicate offence:

Provided that for the purposes of this subsection, the court shall not make the assumptions required by section 7.

(5) Where, as a result of the new assessment required above, the amount to be recovered exceeds the amount that had been assessed under section 7 the court-

(a) may substitute for the amount to be recovered under the confiscation order such greater amount as it considers just, and

(b) where the court replaces the amount of the order, it shall also replace the terms of imprisonment prescribed by section 128 of the Criminal Procedure Law and by section 9 of this Law. Cap. 155.

(6) No application shall be considered by the court under this section if it is made after the end of the period of six years beginning with the date of conviction.

(7) For the purposes of this Part, "the date of conviction" means-

(a) the date on which the accused was convicted; or

(b) the date of the last conviction where the accused appeared for the imposition of a sentence in respect of more than one conviction, and those convictions were not all made on the same date.

PART IV - INTERNATIONAL CO-OPERATION

37. For the purposes of this Part: Interpretation of principal terms.

"appeal" for the purposes of subsection 3(a) of section 38 (Procedure for the enforcement of foreign orders) shall include any proceedings the object of which is the setting aside of a judgment of the court or the retrial of the case or the stay of its execution;

"Convention" means- 2 of 25(I) of 1997.

(a) The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was ratified by the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Ratification) Law; and 49 of 1990.

(b) the Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime which was ratified by the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Ratification) Law of 1995. 18(III) of 1995.

"court" means the President or a Senior District Judge of the District Court of Nicosia;

"foreign country" means a country which at the time of submitting an application for the execution of a foreign order is a Contracting Party to the Convention;

"foreign order" means an order made by a court of a foreign country, which is made for the purposes of the Convention or legislation enacted for the purpose of implementing the Convention and shall include-

(a) Orders for the confiscation of proceeds and instrumentalities as these are defined in the Convention;

(b) restraint orders and orders for the seizure of property made temporarily for the purposes of future confiscation of proceeds and instrumentalities;

(c) any order which the Council of Ministers may, by notification published in the Official Gazette of the Republic, wish to include in the term "foreign order".

Procedure for the enforcement of external orders.

38.-(1) The request for enforcement shall be submitted by or on behalf of a foreign country to the Minister of Justice and Public Order who, if satisfied that the request comes from a foreign country and concerns a foreign order within the meaning of this Part, shall thereafter transmit the request to the court.

(2) Subject to the provisions of subsection (3), the court, after a request of a foreign country is transmitted to it, shall register the foreign order for the purpose of its enforcement.

(3) The court shall register an external order, if satisfied that-

(a) At the time of registration the external order was in force and enforceable;

(b) where the external order was made in the absence of the accused, the accused received notice of the proceedings in time to enable him to present his case and state his views;

(c) the enforcement of the order would not be contrary to the interests of justice of the Republic;

(d) the grounds for refusal of cooperation mentioned in Article 18 of the Convention do not concur.

Effect of registration.

39.-(1) Subject to the provisions of subsection (2) of this section, a foreign order registered by virtue of section 38 (Procedure for the enforcement of foreign orders) shall become enforceable as if the order had been made by a competent court of the Republic under this Law.

(2) The enforcement of the order may be subject to a term of the foreign country that the penalty of imprisonment or other deprivation of liberty, in case there is compliance with the order, shall not be imposed.

7 of 41(I) of 1998.

(3) Where the foreign order concerns the confiscation of proceeds or property, the proceeds or property may, after the enforcement of the said order, be distributed among the competent authorities of the foreign country and the Republic of Cyprus.

Cancellation of registration.

40. The court shall cancel the registration of a foreign order if it appears to the court that the order has been complied with-

(a) by the payment of the amount due under the order; or

(b) by the imprisonment of the person against whom the order was made for the reason that he did not comply therewith; or

(c) in any other way that may be provided for under the legislation of a foreign country.

External order shall be binding.

41.-(1) A foreign order may be amended or revised only by a court or any other competent authority of the foreign country which made the order.

(2) The court, when exercising the powers conferred upon it by section 39 (Effect of registration) as well as other powers in respect of the execution of a foreign order, shall be bound by the findings as to the facts in so far as they are stated in the conviction or decision of a court of the foreign country or in so far as such conviction or judicial decision is implicitly based on them.

Amount of an order.

42.-(1) Where in the foreign order there is a reference to a sum of money to be received in the currency of another country, this amount shall be converted into the currency of the Republic at the rate of exchange ruling at the time the request for registration was made.

(2) Under no circumstances shall the total value of the confiscated property exceed the sum of money to be paid which is referred to in the foreign order.

Supplementary provisions.

43.-(1) Sections 14 to 23 both inclusive shall also apply in cases of foreign orders subject to any amendments or limitations that the Council of Ministers may wish to prescribe by regulations made under this Law.

(2) The Council of Ministers may include in the Regulations any other provision it considers necessary for the better implementation of this Part and in particular anything relating-

(a) to the proof of any matter or thing;

(b) to the circumstances which in any foreign country may be considered as constituting the commencement or conclusion of procedures for the making of an external order.

(3) Where on the request of or on behalf of a foreign country the court is satisfied that proceedings have been instituted but not concluded in this country during which a foreign order may be made, the court shall make a restraint or charging order by applying sections 14 and 15 of this Law-

(a) in the same way in which they would apply in respect of proceedings which were instituted in the Republic but not concluded against a person accused of commission of a prescribed offence;

(b) as if the reference to a confiscation order was a reference to a foreign order and the reference to an application by the prosecutor was a reference to a request from or on behalf of the foreign country;

(c) subject to the amendments prescribed in the Regulations made under this section.

(4) The application of this section shall not depend upon the making of Regulations and until Regulations are made, the sections referred to in subsection (1) shall apply without any amendment or limitations.

PART V - ORDERS FOR THE DISCLOSURE OF INFORMATION

44. For the purposes of this Part- Interpretation of terms.

"information" means any kind of oral or written communication and includes information contained in a computer;

"privileged information" means-

(a) a communication between an advocate and a client for the purposes of obtaining professional legal advice or professional legal services in relation to legal proceedings whether these have started or not, which would in any legal proceedings be protected from disclosure by virtue of the privilege of confidentiality under the law in force at the relevant time;

Provided that a communication between an advocate and a client for the purposes of committing a prescribed offence shall not constitute privileged information;

(b) any other information which is not admissible in court for the protection of the public interest under the law in force at the relevant time.

45.-(1) Irrespective of any provisions in other laws, for the purposes of inquiry in relation to prescribed offences or in Order for disclosure.

relation to inquiry for the determination of proceeds or instrumentalities, the court may, on the application of the investigator of the case, make an order for disclosure under the provisions of this Part.

(2) For the purposes of this section, inquiry shall also include an inquiry conducted abroad and investigator of the case in respect of investigation conducted abroad shall include any investigator under the provisions of any relevant law of the Republic who cooperates with the investigator of the case.

(3) Any person to whom an order of disclosure is addressed under section 46 (Conditions for the making of an order for disclosure), shall have an obligation to notify forthwith the investigator about any subsequent change in the information that has already been given under this section.

Conditions for the making of an order for disclosure.

46.-(1) The court before which an application for the making of an order for disclosure is submitted, may, if satisfied that the conditions of subsection (2) are fulfilled, make an order called order for disclosure, addressed to the person who appears to the court to be in possession of the information to which the application relates, calling upon the said person to disclose or produce the said information to the investigator or any other person specified in the order within seven days or within such a longer or shorter period of time as the court may specify in the order if it considers expedient under the circumstances.

(2) The conditions referred to in subsection (1) are that:

(a) there is a reasonable ground for suspecting that a specified person has committed or has benefited from the

commission of a predicate offence;

(b) there is reasonable ground for suspecting that the information to which the application relates is likely to be, whether by itself or together with other information, of substantial value to the investigations for the purposes of which the application for disclosure has been submitted;

(c) the information does not fall within the category of privileged information;

(d) there is a reasonable ground for believing that it is in the public interest that the information should be produced or disclosed, having regard to:

(i) the benefit likely to result for the investigation from the disclosure or provision of the said information; and

(ii) the circumstances under which the person in possession of the information holds it.

(3) The order for disclosure-

(a) may also be made in relation to information which is in the possession of a government officer;

(b) shall have effect despite any obligation for secrecy or other restriction upon the disclosure of information imposed by law or otherwise;

(c) shall not confer any right for production or disclosure of

information which is privileged.

47. Where the required information is contained in a computer- Information contained in a computer.

(a) if the order directs the disclosure of such information, the order shall be enforced by the disclosure of this information in a visible and legible form;

(b) if the order directs the handing over of the information to the investigator or other person, the order shall be enforced by the handing over of the information to the investigator in a form which is visible, legible and portable.

48. Any person making a disclosure which may impede or prejudice the interrogation and investigation carried out in respect of prescribed offences or the ascertainment of proceeds, knowing or suspecting that the said interrogation and investigation are taking place, shall be guilty of an offence punishable by imprisonment not exceeding five years. Offences.

PART VI - SUMMARY INQUIRY

49.-(1) The procedure of inquiry followed under this section, called summary inquiry, shall relate to the cases where the kind or amount of the benefit may be more easily determined by an evaluation of the financial position of the accused and his family. Conduct of a summary inquiry.

(2) For the purposes of this Part-

"financial position of the accused" shall include the income of the accused derived from any source and all the movable and immovable property which he had or acquired in the last six years before his conviction;

"family of the accused" shall include his father, mother, spouse and descendants.

(3) The inquiry referred to in this Part shall be conducted upon the application of the Attorney-General where the court which has convicted a person of the commission of a predicate offence believes that there are reasonable grounds to conduct an inquiry for the purpose of imposing an appropriate pecuniary penalty in respect of the proceeds which the accused might have acquired from the commission of the offence.

Procedure to be followed.

50. The summary inquiry shall be conducted under section 6 (Inquiry in order to determine whether the accused acquired proceeds) and in accordance with the following provisions:

(a) the court shall call upon the accused to give particulars of any matter relevant to the imposition of the penalty including the financial position of the accused and his family. The particulars must be supported by receipts, titles and other documents verifying their correctness;

(b) the examination of the accused is conducted by the court through which questions are submitted by the prosecution and by the advocate of the accused. The court, if it considers expedient, may allow the cross-examination and re-examination of the accused by the prosecution and by the advocate of the accused respectively;

(c) the accused may after the conclusion of his examination by the court call witnesses and adduce any evidence in support of his allegations following which the prosecution may call witnesses and adduce evidence in rebuttal;

(d) the witnesses called to give evidence under subsection (c) above shall be cross-examined and re-examined as if they were witnesses testifying in criminal proceedings;

(e) if at the conclusion of the inquiry the accused fails to give sufficient and satisfactory explanations regarding the manner in which he acquired the various assets owned by him or his family and regarding any other matter relevant to section 7 (Assessing the proceeds from the commission of a predicate offence), the court may proceed on the assumption that:

(i) any property of his or part thereof acquired at any time during the last six years prior to the institution of criminal proceedings and for which no satisfactory explanations were given or which were not supported by satisfactory evidence, has been acquired with proceeds from the commission of a predicate offence;

(ii) any property of his family or part thereof for which no sufficient or satisfactory explanations were given and which has been transferred at any time during the last six years prior to the institution of proceedings against him was the subject of a gift which was made by the accused for the purpose of

avoiding the consequences of the Law.

(f) the court, after having determined that the accused benefited from the commission of a predicate offence and subject to subsection (3) of section 49 (Conduct of summary inquiry), may impose a pecuniary penalty without prejudice to the power of the court to impose any other additional penalty;

(g) the court, in assessing the fine to be imposed, takes into account the benefit the accused had from the commission of a predicate offence as such benefit was determinded in an inquiry under this section;

(h) the court may, for the purpose of making an inquiry under this section, make any order in order to compel the accused or any other person to attend and to testify or to produce anything relevant to the inquiry.

False statements.

51. A person called as a witness before the court in relation to an inquiry carried out under this Part and who knowingly gives false or inaccurate information shall commit an offence punishable by four years imprisonment.

Enforcing a pecuniary penalty.

52.-(1) The court for the purpose of enforcing a pecuniary penalty may, if it considers expedient, appoint a receiver who shall have the same functions as if he were appointed under section 17 (Appointment of a receiver).

(2) Subject to subsection (1), the provisions of section 9 (Procedure for enforcing a confiscation order. Table) shall apply for the enforcement of a pecuniary penalty as if the reference

made in that section to a confiscation order were a reference to a pecuniary penalty imposed after an inquiry had been conducted under this Part.

(3) Notwithstanding the provisions of any other law regarding the manner of enforcement of orders for the payment of pecuniary penalties, an inquiry conducted by the court for the purposes of this Part shall also be deemed to be an inquiry conducted under section 119 of the Criminal Procedure Law and the court shall not impose a pecuniary penalty which in the light of the findings of the inquiry cannot be collected either from the property of the accused or by setting aside transfers and gifts of property to members of his family.

PART VII
UNIT FOR COMBATING MONEY LAUNDERING OFFENCES, ADVISORY AUTHORITY FOR COMBATING MONEY LAUNDERING OFFENCES

Composition of the Unit for Combating Money Laundering Offences.

53.-(1) A Unit for Combating Money Laundering Offences (hereinafter called "Unit") shall be established and shall be composed of representatives of the Attorney-General, the Chief of Police and the Director of the Department of Customs and Excise who shall be appointed by the Attorney-General, the Chief of Police and the Director of the Department of Customs and Excise, respectively.

(2) The members of the Unit shall be appointed by detachment and by name and the duration of their appointment shall be at least three years.

(3) The members of the Unit shall be deemed to be investigators by virtue of section 5 of the Criminal Procedure Law. Cap. 155.

(4) The Unit is presided by a representative of the Attorney-General of the Republic. 8 of 41(I) of 1998.

54.-(1) The Unit, inter alia, shall- Functions of the Unit.

(a) be responsible for the gathering, classification, evaluation and analysis of information relevant to laundering offences;

(b) conduct investigations whenever there are reasonable grounds for believing that a laundering offence has been committed;

(c) co-operate with the corresponding Units abroad, for the purposes of investigation of laundering offences by the exchange of information and by other relevant ways of co-operation. 9 of 41(I) of 1998.

(d) issue directives for the better exercise of its functions. 9 of 41(I) of 1998.

(2) For purposes of subsection (1)

(a) members of the Unit, upon the making of a judicial order, may enter any premises including premises of a financial institution; and

(b) the Unit may, upon a relevant application to the court, secure an order for the disclosure of information.

(3) Any report made at a police station in respect of the commission of a prescribed offence shall be transmitted forthwith to the Unit by the officer in charge of the said police station.

Advisory Authority for Combating Money Laundering Offences.

55.-(1) The Council of Ministers shall establish an Advisory Authority for Combating Money Laundering Offences (hereinafter referred to as "Advisory Authority") which shall be composed of a representative of-

(a) The Central Bank of Cyprus;

(b) all other supervisory authorities;

(c) the Ministry of Finance;

(d) the Ministry of Justice and Public Order;

(e) the Attorney-General;

(f) the Association of Commercial Banks;

(g) the Cyprus Bar Association, the Institute of Certified Public Accountants of Cyprus and other professional bodies which the Council of Ministers may prescribe.

(h) any other organisation or service the Council of Ministers may prescribe.

(2) The Advisory Authority shall be presided by the representative of the Ministry of Justice and Public Order or in case he is absent by the representative of the Central Bank of Cyprus.

(3) The Advisory Authority shall be in quorum where at least five members are present at the meeting.

Powers of the Advisory Authority.

58. The Advisory Authority shall-

(a) inform the Council of Ministers of any measures taken and the general policy applied against money laundering offences;

(b) advise the Council of Ministers about additional measures which, in its opinion, should be taken for the better implementation of this Law;

(c) promote the Republic internationally as a country which complies with all the conventions, resolutions and decisions of international bodies in respect of combating laundering offences.

PART VIII

SPECIAL PROVISIONS IN RESPECT OF RELEVANT FINANCIAL BUSINESS

Interpretation of principal terms.

57. For the purposes of this Part-

"applicant for business" means a person seeking to form a business relationship or carry out a one-off transaction, with a person who is carrying out relevant financial business in or from within the Republic;

"business relationship" means any arrangement between two or more persons where-

(a) the purpose of the arrangement is to facilitate the carrying out of transactions between the persons concerned on a frequent, habitual or regular basis; and

(b) the total amount of any payment or payments to be made by any person to any other person in the course of that arrangement is not known or capable of being ascertained at the time the arrangement is made;

"one-off transaction" means any transaction other than a transaction carried out in the course of an established business relationship formed by a person acting in the course of relevant financial business;

"relevant financial business" means the business of being engaged in the carrying out of:-

(a) any activity listed in section 61 (Relevant financial business) of this Law;

(b) any other activity defined by the Council of Ministers

as such by an order amending section 61 of this Law published in the Official Gazette of the Republic.

Procedures to prevent money laundering offences.

58.-(1) No person shall, in the course of relevant financial business carried on by him in or from within the Republic, form a business relationship, or carry out an one-off transaction with or on behalf of another, unless that person-

(a) applies the following procedures in relation to that business-

(i) identification procedures in accordance with sections 62-65 of this Law;

(ii) record-keeping procedures in accordance with section 66 (Record keeping procedures) of this Law;

(iii) internal reporting procedures, in accordance with section 67 (Internal reporting procedures) of this Law;

(iv) such other procedures of internal control and communication, as may be appropriate for the purposes of forestalling and preventing money laundering;

(b) takes appropriate measures from time to time for the purposes of informing employees whose duties include the handling of relevant financial business about-

(i) the procedures under sub-section 1(a) above which are followed by him and which relate to the relevant financial business in question, and

(ii) the legislation relating to money laundering; and

(c) provides from time to time for the training of his employees in the recognition and handling of transactions carried out by, or on behalf of, any person who is, or appears to be, engaged in money laundering offences.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence punishable by imprisonment of two years or by a pecuniary penalty of two thousand pounds or by both of these penalties.

(3) In determining whether a person has complied with the requirements of sub-section (1) above, a court may take into account-

(a) any relevant supervisory or regulatory guidance which applies to that person;

(b) where no guidance falling within sub-section 1(a) above applies, any other relevant instructions issued by the professional body that regulates, or represents the business or work carried on by that person.

Offences by bodies corporate.

59.-(1) Where an offence under section 58 (Procedures to prevent money laundering) above committed by a body corporate is proved to have been committed with the consent or

connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity he, as well as the body corporate, shall be guilty of an offence and shall be liable to imprisonment of two years or to a pecuniary penalty of two thousand pounds or to both of these penalties.

partnerships and unincorporated associations.

(2) Where the affairs of a body corporate are managed or controlled by shareholders who are not directors, managers, secretaries or other officers, sub-section (1) above shall apply in relation to the acts and omissions of the shareholder concerned in connection with the exercise of his managerial functions as if he were a director of a body corporate.

(3) Where an offence under section 58 above is committed by an unincorporated association, and is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of, a person who manages or controls the association, he as well as the association, shall be guilty of an offence and shall be liable to imprisonment of two years' imprisonment or to a pecuniary penalty of two thousand pounds or to both of these penalties.

60.-(1) The Supervisory authority-

Supervisory Authorities.

(a) in relation to persons who have a licence under the relevant laws of the Republic to carry on banking business in or from the Republic, shall be the Central Bank of Cyprus;

(b) in relation to persons carrying out relevant financial business, other than that referred to in paragraph (a) above, shall be designated by the Council of Ministers which may designate one or more supervisory authorities.

(2) It shall be the principal duty of a supervisory authority to assess and supervise compliance, by persons falling under its area of supervisory responsibility, with the provisions of this part of the Law.

(3) A Supervisory authority may, at its discretion, issue directions or circulars to persons falling within its supervisory responsibility, to assist them in complying with this part of the Law.

(4) Where the Supervisory authority is of the opinion that a person falling within its supervisory responsibility has failed to comply with the provisions of this Part, it shall refer the matter to the Attorney-General.

(5) Where a Supervisory authority-

(a) possesses information, and

(b) is of the opinion that any person subject to its supervision may have been engaged in a money laundering offence,

it shall, as soon as is reasonably practicable, transmit the information to the Unit as soon as possible.

(6) No criminal proceedings shall be instituted under

subsection (4) without the prior express consent of the Attorney-General.

61. Relevant financial business includes the following: Relevant financial business.

(1) Acceptance of deposits by the public.

(2) Lending money to the public.

(3) Finance leasing, including hire purchase financing.

(4) Money transmission services.

(5) Issue and administration of means of payment (e.g. credit cards, travellers' cheques and bankers' drafts).

(6) Guarantees and commitments.

(7) Trading on one's own account or on account of customers in-

(a) Stocks or securities including cheques, bills of exchange, bonds, certificates of deposits,

(b) foreign exchange,

(c) financial futures and options,

(d) exchange and interest rate instruments,

(e) transferable instruments.

(8) Participation in share issues and the provision of related services.

(9) Consultancy services to enterprises concerning their capital structure, industrial strategy and related issues and consultancy services as well as services in the areas of mergers and acquisitions of businesses.

(10) Money broking.

(11) Investment services, including dealing in investments, managing investments, giving investment advice and establishing and operating collective investment schemes. For the purposes of this section, the term "investment" includes long-term insurance contracts, whether or not associated with investment schemes.

(12) Safe custody services.

(13) Custody and trustee services in relation to stocks.

Identification procedures.

62.-(1) Identification procedures followed by a person are in accordance with this Law if in the circumstances set out in subsection (2) below they require, as soon as is reasonably practicable, after the first contact between that person and an applicant for business, concerning any particular business relationship or one-off transaction-

(a) The production by the applicant for business of satisfactory evidence of his identity; or

(b) the taking of such measures specified in the procedures as will produce satisfactory evidence of his identity,

and the procedures are in accordance with this Law if they require that where that evidence is not obtained as specified in (a) and (b) above, the business relationship or one-off transaction in question shall not proceed any further.

(2) The circumstances mentioned in subsection (1) above are those where-

(a) the parties form or resolve to form a business relationship between them;

(b) in respect of any one-off transaction, any person handling the transaction knows or suspects that the applicant for business is engaged in a money laundering offence, or that the transaction is carried out on behalf of another person engaged in a money laundering offence.

(c) in respect of any one-off transaction, payment is to be made by or to the applicant for business of a sum of ten thousand pounds or more;

(d) in respect of two or more one-off transactions, where:

(i) it appears at the outset to a person handling the transactions-

- that the transactions are linked, and

that the total sum, in respect of all of the transactions, which is payable by or to the applicant for business is ten thousand pounds or more;

(ii) at any later stage, it comes to the attention of such a person that the requirements of sub-paragraph (i) of subsection (2)(d) above are satisfied.

(3) The procedures referred to in sub-section (1) above are in accordance with this Law if, when a report is made whether in accordance with section 67 (Internal reporting procedures) or directly to the Unit, in circumstances falling within paragraph (b) of subsection (2), they provide for steps to be taken in relation to the one-off transaction in question in accordance with any directions that may be given by the Unit.

(4) In this Law references to satisfactory evidence of a person's identity shall be construed in accordance with sub-section (1) of section 65 (Supplementary provisions) below.

Transactions on behalf of another person.

63.-(1) This section shall apply where, in relation to a person who is bound by section 62(1) above, an applicant for business acts on behalf of another person.

(2) Subject to the provisions of subsection (3) below, identification procedures followed by a person are in accordance with this Law if, in a case to which this Law applies, they require reasonable measures to be taken for the purpose of establishing the identity of any person on whose behalf the

applicant for business is acting.

(3) In determining, for the purposes of sub-section (2) above, what constitutes reasonable measures in any particular case, all the circumstances of the case shall be taken into account and, in particular, to the best practice which, at the material time, is followed in the relevant field of business and which is applicable to those circumstances.

Exemptions.

64. From the identification procedures under sections 62 and 63 are exempted those clients for whom there are reasonable grounds for believing that they are persons who are bound by the provisions of section 58 (Procedures to prevent money laundering) of this Law.

Supplementary provisions.

65.-(1) For the purposes of the provisions relating to identification procedures, proof of identity is satisfactory if-

(a) It is reasonably possible to establish that the applicant is the person he claims to be; and

(b) the person who examines the evidence is satisfied, in accordance with the procedures followed under this Law in relation to the relevant financial business concerned, that the applicant is actually the person he claims to be.

(2) In determining, for the purposes of subsection (1) of section 62 (Identification procedures) above, the time limit in which satisfactory evidence of a person's identity has to be obtained, in relation to any particular business relationship or one-off transaction, all the circumstances shall be taken into account including, in particular-

(a) The nature of the business relationship or one-off transaction concerned;

(b) the geographical location of the applicant for business;

(c) whether it is practical to obtain the evidence before commitments are entered into between the parties or before money passes;

...n to the circumstances mentioned in subsection ... or (d) of section 62 (Identification procedures) ..., the time of the initial stage at which there are ...iable grounds for believing that the total amount ...e by an applicant for business is ten thousand ...s or more.

...rd-keeping procedures followed by any person ...ce with this Law if they require the keeping, for ...eriod, of the following records: Record-keeping procedures.

...s where, in relation to any business relationship ...med or one-off transaction that is carried out, ... of a person's identity is obtained under ...s followed in accordance with sections 62 ...on procedures) or 63 (Transactions on behalf ... person), a record that contains this evidence

...des a copy of the evidence;

... case where it is not reasonably practicable to

comply with (i) above, which provides sufficient information which enables the details as to a person's identity to be recovered; and

(b) a record containing details relating to all transactions carried out by that person in the course of relevant financial business.

(2) For the purposes of sub-section (1) above, the prescribed period is, subject to sub-section (3) below, the period of at least five years commencing with-

(a) In relation to the records described in sub-section (1)(a), the date on which the relevant business was completed within the meaning of sub-section (3) below; and

(b) in relation to the records described in sub-section (1)(b), the date on which all activities taking place in the course of the transaction in question were completed.

(3) For the purposes of subsection (2)(a) above, the date on which relevant business is completed is, as the case may be-

(a) In circumstances falling under paragraph (a) of section 62(2), the date of termination of the business relationship in respect of the formation of which, the record under sub-section (1)(a) above was compiled;

(b) in circumstances where the formalities necessary to terminate a business relationship have not been observed, but a period of five years has elapsed since the date on which the last transaction was carried out in

the course of that relationship, the date of completion of all the activities taking place in the course of the last transaction shall be treated as the date on which the business relationship was terminated;

(c) in circumstances falling under paragraphs (b) or (c) of section 62(2), the date of completion of all the activities taking place in the course of the one-off transaction in respect of which the record under sub-section (1)(a) above was compiled;

(d) in circumstances falling within paragraph (d) of section 62(2), the date of completion of all the activities taking place in the course of the last one-off transaction in respect of which the record under sub-section (1)(a) above was compiled.

Internal reporting procedures.

67. Internal reporting procedures followed by a person are in accordance with this Law if they include provisions-

(a) Identifying a person ("the competent person") to whom a report is to be made about any information or other matter which comes to the attention of the person handling relevant financial business and which, in the opinion of the person handling that business, proves or creates suspicions that another person is engaged in a money laundering offence;

(b) requiring that any such report be considered in the light of all other relevant information by the competent person, or by another designated person, for the purpose of

determining whether or not the information or other matter contained in the report proves this fact or creates such suspicion;

(c) allowing the person to whom the examination of a report in accordance with paragraph (b) above has been assigned to have access to other information which may be of assistance to him and which is available to the person responsible for maintaining the said internal reporting procedures; and

(d) for securing that the information or other matter contained in the report is transmitted to the Unit where the person who has considered the report under the above procedures ascertains or has reasonable suspicions that another person is engaged in a money laundering offence.

PART IX - MISCELLANEOUS PROVISIONS

Application of civil proceedings.

68. A court which adjudicates applications for the making of any order under this Law shall apply civil proceedings including the standard of proof applicable in these proceedings.

Setting aside of gifts.

69.-(1) The court may make an order setting aside any prohibited gift with a view to enforcing a confiscation order or a pecuniary penalty.

(2) The court, before making the order for the setting aside of the gift, shall afford the person in possession of the property which constitutes the subject-matter of the gift the opportunity to express his views and to give reasons why the setting aside of

the gift should not be ordered.

(3) Where the person in possession of the subject-matter of the gift is a minor, the opportunity mentioned in subsection (2) shall be afforded to his guardian.

(4) The court may order that any property, after the setting aside of the gift in pursuance of the provisions of subsection (1), be registered provisionally for the purposes of enforcement of any order of the court in the name of the receiver or other person specified in the order.

(5) Any property which is the subject-matter of an order under subsection (1) shall be disposed in accordance with the directions of the court.

(6) For the purposes of this section the provisions of subsection (8) of section 13 shall apply.

Extradition of a person who has committed a prescribed offence.

70. Notwithstanding the provisions of any other Law, a prescribed offence shall constitute an offence for the purposes of extradition of fugitives under the relevant law.

Service of orders.

71. Service of an order made under this Law to a supervisory authority shall be deemed as service to all the persons who are subject to the control of the supervisory authority:

Provided that the supervisory authority shall be obliged to notify forthwith all the persons subject to its control about the order made under this Law.

72.-(1) The Supreme Court may make rules for the better implementation of the provisions of this Law. Rules of Court.

(2) Until rules of court are made, the courts shall apply the existing rules of court according to the nature of the proceedings with such variations or modifications as are considered necessary.

73.-(1) Upon the enactment of this Law, the Confiscation of Proceeds of Trafficking of Narcotic Drugs and Psychotropic Substances Law of 1992 shall be repealed without prejudice to any act or action that was done or instituted under the repealed Law. Repeal and reservation. 39(I) of 1992.

(2) Any proceedings that were instituted under the repealed Law, shall continue on the basis of the provisions of this Law.

APPENDIX C

Criminal Code:

Provisions which could be applied to acts of terrorism

42.	Inciting to mutiny.	Imprisonment for life.
43.	Aiding soldiers or policemen in acts of mutiny.	Misdemeanour.
44.	Inducing soldiers or policemen to desert.	Imprisonment for six months.
45.	Aiding prisoners of war to escape.	(a) Imprisonment for life, (b) Misdemeanour.
47.	Seditious conspiracy and publications with seditious intention.	Imprisonment for five years.
50.	Publication of false news, etc.	Imprisonment for two years or fine five hundred pounds or both
50A.	Publication of news, etc., relating to defence works, etc.	Imprisonment for six years.
50C.	Espionage	Imprisonment for ten years
51.	Encouraging violence and promoting ill will	Imprisonment for twelve months.

51A.	Procurement or incitement to acts of violence, etc.	Imprisonment for twelve months or fine of one thousand pounds or both or in case of a body corporate fine of three thousand pounds.
52.	Unlawful oaths to commit capital offences	Imprisonment for life.
53.	Other unlawful oaths to commit offences	Imprisonment for seven years.
55.	Unlawful drilling	Imprisonment for seven years.
56.	Membership of an unlawful association illegal	(a) Imprisonment for three years. (b) Imprisonment for seven years
57.	Advocating and encouraging unlawful association	Imprisonment for five years.
58.	Giving or soliciting contributions for an unlawful association	Imprisonment for one year.
59.	Possession of documents having a seditious intention and publication, etc., of propaganda of unlawful association	Imprisonment for three years and any document shall be forfeited.

80.	Carrying arms to terrorise	Imprisonment for two years, arms or weapons shall be forfeited.
91.	Threatening violence	Imprisonment for three years.
92.	Possessing firearms with intent to injure	Imprisonment for five years.
108A.	Assumption of the right to wear uniform etc.	Imprisonment for twelve months or to a fine of three hundred pounds or both.
109.	Personating public officers.	Imprisonment for three years.